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**ROYAL COMMISSION ON EMPLOYMENT OF FIREMEN  
ON DIESEL LOCOMOTIVES IN FREIGHT AND YARD  
SERVICE ON THE CANADIAN PACIFIC RAILWAY**

**PROCEEDINGS**



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Chairman











ERRATA

Volume 3

Please make the following corrections  
in your transcript, VOLUME 3

- ✓ Page 308, line 31 - "Exhibit 21" should read  
"Exhibit 1"
- ✓ Pages 320 and 321 - These pages may have been  
reversed in the binding.
- ✓ Page 352, line 25 - "taken" should read "ordered".
- ✓ Page 352, line 28 - "outdoor" should read "outer"
- ✓ Page 356, line 6 - "7.50" should read "7.30"
- ✓ Page 359, line 17- "reducing the valley differentials"  
should read "reducing to the  
valley differentials"





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ROYAL COMMISSION ON EMPLOYMENT OF  
FIREMEN ON DIESEL LOCOMOTIVES IN  
FREIGHT AND YARD SERVICE ON THE  
CANADIAN PACIFIC RAILWAY

Proceedings of public  
hearing held at Ottawa,  
Ontario, Tuesday, March  
12, 1957

PRESENT:

Hon. R.L. Kellock,	Chairman
Hon. C.C. McLaurin,	Member
Hon. Jean Martineau,	Member
Douglas M. Fraser,	Secretary
A.R. Winship	Asst. Secretary

APPEARANCES:

D.W. Mundell, Q.C.	Representing the
C.J.A. Hughes, Q.C.	Commission
I.D. Sinclair,	Representing the
John Pearson,	Canadian Pacific
	Railway Company
David Lewis, Q.C.	Representing the
	Brotherhood of
	Locomotive Firemen
	and Enginemen

-----

7TH DAY

MORNING SESSION

--- The Commission opened at 10.30 a.m.





EXHIBIT No. 11 -- Statement of  
Amended Earnings of Fire-  
men in Mountain  
Territory.

EXHIBIT No. 11-A -- Number of Diesel  
Units on Mountain  
Subdivision

KARL A. BORNTRAGER, Recalled

EXAMINED BY MR. SINCLAIR:

- Q At our adjournment yesterday, Mr. Borntrager, you were dealing with occurrences that have taken place, two with steam engines and one with a diesel locomotive. The diesel one occurred in February of this year on the New York Central at Ripley, New York. You mentioned that that territory was under automatic train control. What is automatic train control?
- A If I said Ripley, New York, it should be Ripley, Ohio.
- Q That is under automatic train control?
- A That is correct.
- Q Just what is automatic train control, Mr. Borntrager?
- A It is a signalling device superimposed upon the ordinary block signal installations, consisting primarily of an inductor which is located at the ends of the ties a few feet in advance of the automatic signal. There is another inductor on the locomotive and the arrangement is so devised that when the inductor on the locomotive passes





over the inductor on the track, if the signal is in a restrictive position the air in the train will be placed on emergency.

Q Is there anything the engineer can do to prevent that happening?

A As this may not be practical at all times or may not be desirable the engineer has a forestalling lever in the cab that he can move while passing over the inductor. When he moves this forestalling lever the device will not actuate the air.

Q Taking this one incident at Ripley, Ohio, which you mentioned yesterday. Did the engineman activate the forestalling lever in that case?

A He did.

Q Why did he do that, can you say?

A So he would not have an emergency application of the brakes; he wanted to make an ordinary application of the brakes.

Q Have you automatic train control on your operations out of New York City where you have these 500 or 600 trains a day operating?

A No; the automatic train control is all outside of the electrified territory.

Q Out of New York City where you have these trains bunched to about two a minute or so, what control have you over the engineman running a signal or anything of that kind?

A He operates on signal indication, ordinary signal indication.

Q He is on his own except for that?



A That is right.

BY THE CHAIRMAN:

Q Those are fixed signals?

A Yes, sir.

BY MR. SINCLAIR:

Q Is there any other instance on that same aspect we are dealing with that you would wish to draw to the attention of the Commission? Have you any matters which you wish to draw to the attention of the Commission in regard to the use of other types of locomotives?

A The only other one we now have is the Budd car, as I said yesterday. All our gasoline motor cars are gone, but we do have Budd cars. I have made some study of the Budd car because it is comparatively new. I believe the first one was installed in 1951 and I was curious to find out what the performance had been safety-wise. As we discussed yesterday, they are operated in various manners, some with one man in the cab and some with two.

I secured the Interstate Commerce Commission reports for the last six years and selected from them all the cases involving accidents with Budd cars. I found that there were only three serious accidents where passengers were killed, really serious accidents, or only two where passengers were killed and the other was a rear end collision.

I found that the first one was on the Santa Fe Railroad in January, 1956. In this instance





a two-unit Budd car manned by an engineer and fireman proceeded at an excessive speed on a curve and overturned. I believe about 40 or 50 people were killed at that time.

The second instance was in February, 1956 on the Boston and Maine Railroad in the suburbs of Boston. Here a multiple unit Budd car manned by an engineer and fireman ran into the rear end of a train that was standing and several lives were lost. The accident was attributed to a failure to properly observe a signal.

Then a somewhat similar occurrence took place because another multiple unit Budd car which had picked up the people from the disabled train, before it reached its terminal also collided with the rear end of another train. Fortunately --

Q How many men were in the cab of that car?

A Two, an engineer and a fireman.

Q You were going on to say, when I interrupted you, something about it being fortunate.

A Fortunately in that case no lives were lost.

Q Based on your studies and observations, Mr. Borntrager, if more men are assigned to the cab of a diesel or the head of a train than are essential, what is the effect on operations, in your opinion?

A I think that you are weakening the safety factor when more men are assigned than needed to perform the duties.





Q In the United States, Mr. Borntrager, can the Interstate Commerce Commission designate the number of men to be employed upon trains with a view to the safety of the public and of employees?

A I understand not.

Q On what is your answer based?

A Our Law Department has so advised me.

Q Now, I wish to turn to the question of efficiency. On your railroad, on freight trains, if a security device such as a ground relay, a low lube pressure alarm operates, does the fireman reset it?

A He does.

Q If there was not a fireman on your road freight diesels what effect would that have on the efficiency of your operations?

A I think we would install more automatic devices on them. I think there would be a considerable increase in that.

BY MR. LEWIS:

Q I am sorry, I did not hear that.

A I think we would install more automatic devices for resetting them, and I assume there would be occasions when we would have to stop the train, but very seldom.

BY MR. SINCLAIR:

Q Taking your operations with your present appliances without any more automatic devices than you have now, what would be the effect on the efficiency, in your opinion?



A I think there would be very little effect.

Q What about yard operations; if a fireman was not assigned to a yard diesel what effect would that have on yard efficiency, in your opinion?

A I think with few exceptions, which I noted yesterday, where additional signalling or devices might have to be installed, that there would be no deterioration in efficiency.

Q Well now, in your yard operations, Mr. Borntrager, when you are coming out on a left-hand curve with the engine ahead, does the fireman make observations, or does he not? There is the engine ahead coming into a left-hand curve, or a left-hand curve on to a lead or ladder track; does the fireman make observations in those cases on your railroad?

A Well, I would assume that he would be expected to.

Q If a fireman was not there how would you take care of that situation?

A We would have dual controls so that the man could move over to that position.

Q Every time he came out on a curve in the yard would you expect your man, your engineman, to move from one side of the cab to the other?

A If it is necessary to get a view, that would be all right.

Q On your railroad how do you position your ground crew?

A We position the ground crew wherever at all





practicable in such position that they can signal to the engineer.

Q Well, taking a movement such as I have described, with a yard engine moving with the engine ahead, making a movement such as I have described, on your railroad where would you position your engine follower; do you know what I mean?

A I do not believe I do.

Q Let me give you an example. You have an engine moving out on to a lead or ladder track with a movement to a left-hand curve, a curve to the left. Where would the engine follower be placed? Where is his proper position on your railroad?

-2 THE CHAIRMAN: We have not heard that they have such a man on the New York Central. They have a ground crew, but the evidence has not gone beyond that.

BY MR. SINCLAIR:

Q How many men have you in your yard ground crews?

A We have a conductor and two helpers.

BY THE CHAIRMAN:

Q What would they be?

A Two helpers, yard brakemen.

BY MR. SINCLAIR:

Q How do you designate those two helpers?

A I do not know that we have the designation that you have here, so I am afraid the question is not quite in line.

THE CHAIRMAN: Too local.

MR. SINCLAIR: I am sorry.



BY MR. SINCLAIR:

Q When you are going to make a yard movement, engine ahead, moving with the engine ahead, with a curve to the left, Mr. Borntrager, how would the ground crew position themselves on your railroad?

A They would position themselves in such a manner as to get the signal to the engineer.

Q Well, how would they position themselves? Place them for the Commission, would you, please?

A If the ground crew is down a lead they would be down the lead in view of the engineer. One man would be in view of the engineer.

Q Have you any rules on your railroad as to the positioning of ground crew on moves ahead, the engine leading the movement?

A We have no arbitrary rules. They place themselves in the best position possible for the movement.

Q Do you require one of the helpers to take a position on the lead, on the point of a movement?

A They are required to place themselves at strategic points, the point of the movement, where they can govern it.

Q Going back to my example of a movement ahead, the engine moving ahead, would there be one of the ground crew on the point of the movement?

A There would.

Q Who?

A There would be -- it would be a brakeman, whichever one was designated for it.





Q Is he always there?

A I can only say that they would have him in such a strategic position that the proper signals could be given to the engineer.

Q Is he always there today? Is he always on the point of the movement today?

A Not necessarily.

Q Why is he not there today?

A I do not think it is necessary always to be in that position.

Q Why? "Why" was my question. You said you did not think it always was necessary for him to be on the point of the movement and I asked you why.

A I do not know whether you are using terms -- I am not so sure whether I understand "point of the movement". I am not so sure what you mean by that.

Q You say that on your railroad the men should take a strategic position so they can give signals to the engineer. That is your position?

A Yes.

Q The ground crew must position themselves strategically to give signals to the engineer, I think you said?

A Yes.

Q I asked you on your railway did they always place one of the ground crew at the point of the movement, that is, the leading point of the movement?

A You mean the leading car?

Q The leading car of a movement?



A If it is necessary they will do so to give a signal.

Q If it is necessary to give a signal?

A Yes.

Q Or if the engine is not pushing the cars but the engine is leading the movement?

A That is right.

Q Now, on your railroad does one of the ground crew position himself at the head of the engine?

A No, he does not ride the leading footboard of the engine, if that is what you are talking about. He does not.

Q Then, how does he give signals on a left-hand curve direct to the engineer? Am I using terms you do not understand, Mr. Borntrager?

A He could be on the rear of the engine and give it to him.

Q How could he see ahead?

A Or he could be on the engine itself and give it to him, in the cab of the engine.

Q Is that on the point of the movement under your definition?

A That would be my interpretation, up there where the movement originates, if that is what you call the point.

Q Now, from your experience on yard operations, do you think that there would be less switching done without a fireman than there is with a fireman?

A With the devices which we have mentioned I think that the switching would be equal.



Q How would you describe the position of a fireman on a yard diesel or a freight diesel, Mr. Borntrager? How would you describe his position today?

A You mean his functions and so forth?

Q How would you describe his position?

A I think he is what you might call a vestigial remnant of an era of railroading that is disappearing.

Q And why do you say that?

A There is nothing left of the job and he is merely there.

MR. SINCLAIR: Please answer my friend's questions.

-----

CROSS-EXAMINED BY MR. LEWIS:

Q Mr. Borntrager, if you do not mind my saying so, you seemed to have a little difficulty answering some of the questions with regard to yard operations. Am I being presumptuous when I suggest to you that perhaps you have been out of touch with them for a good many years?

A I would not say so many years.

Q Pardon?

A I think probably the terminology may have something to do with the questions asked by counsel.

Q But is it not so, Mr. Borntrager -- I drew this conclusion and correct me if I am wrong -- that your detailed knowledge of yard operations is not





at the moment very full?

A I have not been superintendent for something like six or seven years but that does not keep me from observing operations.

Q No. I was interested in one of your first remarks, Mr. Borntrager, which I would like to spend a moment on, as to your reason why you came here to give evidence. Would you mind repeating what you said? I have not had time to look at the transcript. I think you said that the situation was such, according to my notes, that you felt you ought to speak for the proposition made by the Canadian Pacific Railway. Is that roughly right?

A That is approximately right, yes.

Q Does that mean, Mr. Borntrager, that your railway, the railway you have been associated with for many years, the New York Central, considers this inquiry of importance to the American railroads as well as to the C.P.R.?

A I think that would be our position. The American railroads in general would have that position.

Q And it means, does it, that you feel that if the C.P.R. can persuade the members of this Commission that its proposition is right it would make it easier for you in the United States to get the same thing?

A Well, it is a common cause very naturally.

Q A common cause?

A It would be a common cause. We all have the same



reasons for wanting this, of course.

Q A common cause between the railways in the United States and the Canadian Pacific Railway?

A We have the same basic reason for wanting it.

Q Now, had there been negotiations or discussions or consultations between your American railroads and the C.P.R. before the propositions were made to the Brotherhood, do you know?

A No, there had not to the best of my knowledge.

Q Is the C.P.R. a member of the American Association of Railroads?

A That I could not say.

Q It would therefore be fair to say, would it, Mr. Borntrager, that this is a sort of pilot inquiry for all the railroads on the North American continent?

A I would not say that.

Q Well, how would you put it?

A This inquiry was instigated by the Canadian Pacific on its own accord and from then on nature took its course.

Q And you regard it, do you not, as a pilot inquiry for the American railroads as well as in Canada?

A I don't know as I ever looked on it that way but it is part of the common cause. I look at it that way.

Q And in that sense it is a pattern that may be set for your railways as well?

A It might well be.

Q Then, you said, Mr. Borntrager, that you considered





the diesel development the most important change in the last 40 years?

A I did.

Q And you indicated a number of advantages that it has already produced <sup>that</sup> and/they have meant, have they, very considerable savings in the New York Central?

A They have made a substantial saving, yes.

B-2 Q And generally from your experience you would know that to have been true, would you?

A Yes, the ones I enumerated yesterday I presume to be true for most any road.

Q In fact, you made the statement, if my notes are right, that the development has made a contribution in every block of expense?

A In every major block of expense, maintenance of way, maintenance of equipment and transportation. It has made a contribution to each one of them.

Q In every major block of expense and the contribution has been very substantial, has it not?

A It has been substantial but not substantial enough, I will say that.

Q What do you mean by "not substantial enough"?

A We have not got the full benefit of it.

Q And by the full benefit I suppose you mean --

A Should be the elimination of firemen in the cases which we are discussing.

Q Then, you said more than once about being prevented by the labour agreements from taking full advantage of the diesel development. Those



agreements were mutual agreements, were they not?

A They were mutual but I assure you they were not very happy about the agreements -- we were not.

Q I suppose the Brotherhood are not always happy about agreements either?

A I think they should be in this case.

Q But there are cases where they are not?

A There might be cases, but not in this one.

Q Now, as a matter of fact, on that point about your not being very happy, Mr. Borntrager, your first agreement regarding the requirement of a helper on a diesel engine dates back to 1937, does it not?

A That is correct.

Q And was there any question at all raised then even in your mind about the need for a helper in 1937?

A I do not really think -- in the early stages of it, it looked like he had very little to do, even the first ones we got out.

Q But I am right in suggesting to you, am I not, that the question of removing the helper from the diesel engine was not even thought of by the railways in 1937?

A Yes, in the early experience in diesels -- that was before ours came in because we did not get ours until 1937 -- I understand on many railroads they put them in without firemen and they were compelled by the 1937 agreement to put them in.

Q And in 1937 when the agreement was made do you



know whether the question of a helper on the diesel was even raised by the railways?

A Well, to answer you specifically, I understand that many railroads did not put them on and very begrudgingly had to put them on after the agreement of 1937.

Q I am asking you if you know, and if you do not just say so. I am asking whether in the agreement of 1937 the railroads raised the question of the helper on the diesel engine at all?

A I was not present, I cannot speak specifically but from reading the records it would indicate that was a very moot question.

Q That is from reading the records of the 1937 --

A That is right.

Q And those records are available where, Mr. Borntrager?

A I think in the diesel proceedings in presidential cases, the diesel proceedings at various times from 1937 on.

Q And was there an emergency board in 1937?

A I do not believe there was.

Q Pardon?

A Not in 1937, I do not think there was.

Q Then, what record would you have read to see what happened in 1937 if there was no emergency board?

A I have read only records from various sources that were presented later in emergency boards reviewing that case.





Q Would that be in the emergency board of 1943,  
for example?

A I do not recall which one it was but in subsequent emergency boards after 1937 reference was made to the 1937 agreement.



Q And you remember reading some reference, such as the one you describe, do you?

A Yes, that is right, in some of those proceedings.

Q You would not, of course, be able to point to the reference now?

A I could not now, no.

Q You could look it up?

A I think it could be found.

Q Can you find it?

A I think that if a search is made it could be found, I am not sure.

MR. LEWIS: Mr. Chairman, this relates to the weight of evidence of the witness, and I respectfully think that Mr. Borntrager or Mr. Sinclair be requested to bring the references to the attention of this Commission.

THE CHAIRMAN: I understood the witness to say he is going to have that done.

BY MR. LEWIS:

Q You do undertake to have that done?

A I shall find that reference that led to the answer I gave you.

Q The 1952 and 1937 agreement?

A Yes, I will look that up for you.

Q As a matter of fact, you said yesterday the first time that the railroads raised this question as an overt action was last year, 1956?

A I believe that is correct, to the best of my knowledge.

Q Does that mean that at no time prior to 1956 had the





railroads made any proposal to remove the firemen from the diesel engine?

A That is the first time the actual proposal was made, to the best of my knowledge.

Q Since we have reached that perhaps I can complete my questions as to that. You were not present at the negotiations last year between the New York Central, as a matter of fact, a committee of the railroads and the Brotherhood, were you?

A No, I was not.

Q You sat in on none of the negotiations?

A That is correct.

THE CHAIRMAN: I did not hear that question.

MR. LEWIS: I said, "you sat in none of the investigations", and he said, "that is correct".

THE CHAIRMAN: I have never been in a place where the acoustics are so bad.

THE WITNESS: I am sorry, I will face you.

BY MR. LEWIS:

Q I thought my voice carried. You agree with me, there was no emergency board last year?

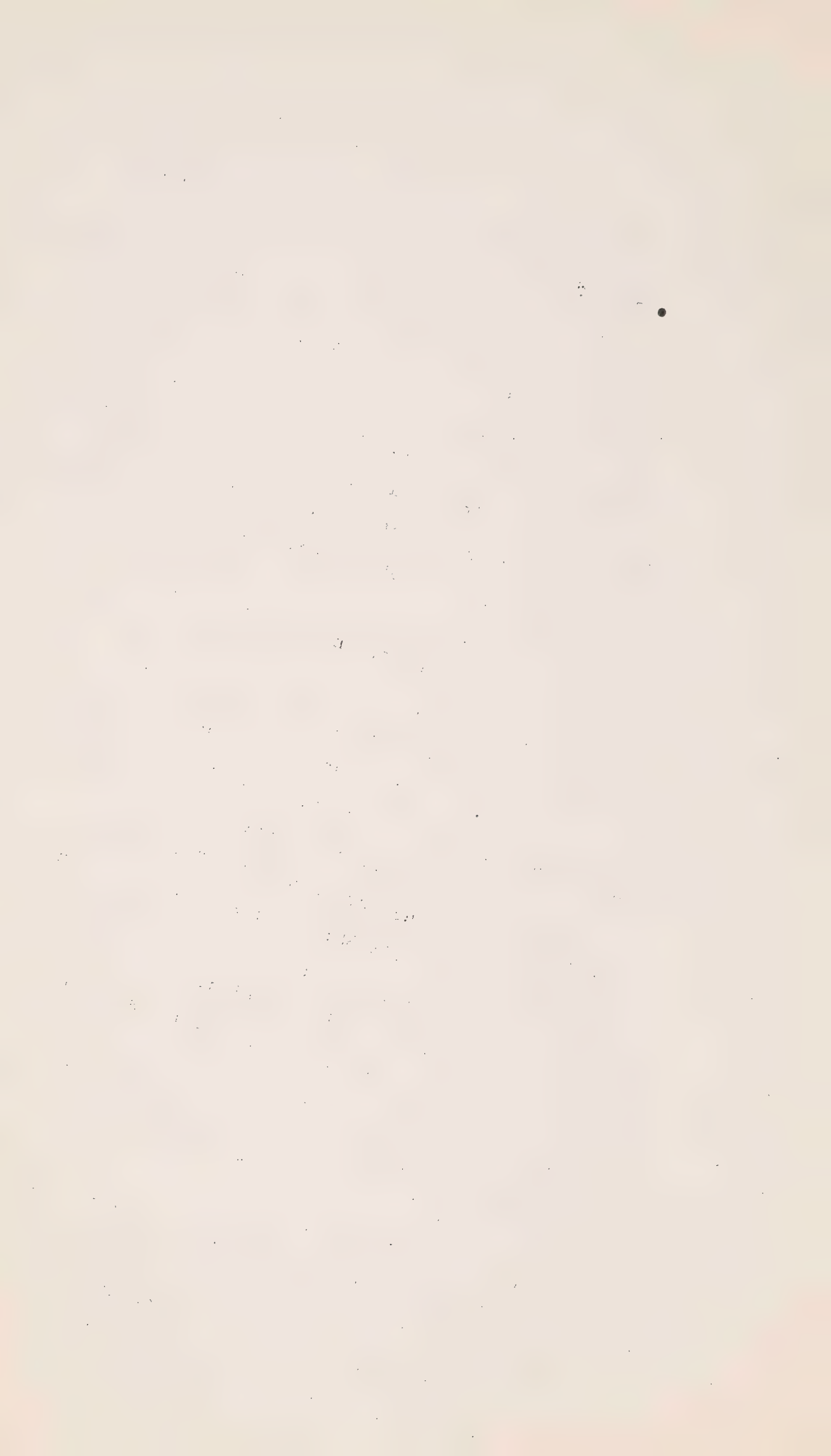
A That is correct.

Q I am instructed -- you correct me if I am wrong -- that there were no minutes kept?

A I don't know.

Q As a matter of fact, you informed the Commission yesterday that you were not consulted before the proposal of the railroads was withdrawn?

A No, I was not in the negotiations whatsoever.



Q You said you were not consulted about them?

A That is correct.

Q So no one discussed the withdrawal with you at all?

A No, they did not.

Q Please tell me how you knew that neither safety nor efficiency was a factor in the decision to withdraw?

A I understood after it was done that there was no mention of that.

Q As a matter of fact, were you informed that there was hardly any discussion at all about the matter?

A There certainly was not as to efficiency and safety.

Q But there was hardly any discussion about the proposal at all?

A Well, I don't know; I was not there.

Q I suggest to you, Mr. Borntrager, with great respect, because you held a very important position in a very important American business institution, that you cannot under oath say to this Commission what were or what were not the reasons for the withdrawal because you don't know?

A I only know what I was told by our officers who were represented.

Q Yes. If I suggest to you, for example, that the proposal was laid on the table -- just follow me for a moment -- and the union said, "We are not going to have anything to do with it," that the company made a few minutes statement and then the



parties adjourned, and the next day the company made the proposal that no longer contained that? Would you know whether that was the sequence?

A I would not know the details of it.

Q I suggest to you, with great respect that you are not in a position to say to this Commission what were and what were not the reasons which prompted the railroads to withdraw their proposal?

A All I can say is what our officers who were responsible for that said about it.

Q When did they say it to you?

A Oh, after the thing was over with.

Q Was there a conference?

A No, just said that was withdrawn without any comment whatsoever as to efficiency or safety.

Q There was no other comment? Was not that right?

A Beyond that I know nothing more than just that; that is all I said yesterday.

Q All right. With great respect, unless my notes are entirely wrong, that is not all you said yesterday. I want this clear on the record, Mr.

Borntrager. You did not merely say that there was no comment about it. You said, if my notes and my memory are right, that they were not factors in the decision. All you are saying now is that you were informed that there were no comments about it. Is that right?

A Just they were not factors. If there were no comments about, then they are not factors.





Q That is the conclusion you draw?

A That is all I can;--

Q As far as the facts are concerned, you were informed merely there was no comment?

A No; the conclusion is they were not factors because they were not mentioned.

Q You also informed us that as far back as 1939 when you first became superintendent -- is that about right?

A That is correct.

Q I beg your pardon?

A That is correct.

Q As far back as 1939, when you first became superintendent, you reached the definite opinion, according to my notes, that helpers on the diesel engine were not necessary?

A That is right.

Q What did you do about it?

A Well, there was very little I could do about it other than talk about it.

Q Did you talk about it?

A We did talk about it.

Q Did you send one of your senior officers a memo about that?

A No; we discussed that many times at our informal discussions, staff meetings, and so forth.

Q But the railway did not do anything about it?

A No more than the joint activities of all American railroads, collective bargaining.



Q I beg your pardon?

A No more than is embodied in the collective bargaining of all railroads.

Q That did not take place until 1956?

A I think that probably in the meantime, of course, there was a lot of controversy about placing additional men on the diesel, and that, I think, slowed down the real issue to take him off.

Q Let us see. When was that controversy about placing additional men on the diesel? When was the first time it occurred, do you remember?

A I don't really recall, I think probably sometime in the 1940's, I would think.

Q Would 1943 sound right to you?

A It might have been early 1940's.

Q That was the proposal of the Brotherhood of Locomotive Firemen and Enginemen?

A I believe that is correct.

Q They suggested that in the case of multiple units there ought to be another helper on the locomotive to take care of mechanical adjustments rule?

A I believe that is right.

THE CHAIRMAN: Was this confined to multiple units?

MR. LEWIS: Yes, Mr. Chairman. I understand that they had to walk back to make those mechanical adjustments.

BY MR. LEWIS:

Q Was the request repeated at a subsequent year?



A I think the matter was up two or three times;  
I cannot recall the precise dates.

Q Do you recall whether the Brotherhood of Locomotive  
engineers made a request for a second engineer?

A As I recall it, they did.

Q Would that be about 1949?

A 1949 or 1950, thereabouts.

Q Do you remember whether the railroads having the  
opportunity in 1943 and 1949, at least, raised  
the question with the emergency boards? I beg  
your pardon, there were emergency boards in that  
year. Were there any in both of those years?

A In both of those years, I believe. I am not so  
sure of the dates -- check that for you.

Q Did the railroads take advantage of the opportunity  
to place the whole question of whether another  
helper was needed on the diesels?

A Unfortunately I believe they did not.

Q Am I right in suggesting that the emergency  
board held that a second helper was not necessary?

A That is correct.

Q Am I right in recollecting to your memory that the  
emergency board did not in any place suggest in  
either of these cases that one helper was not  
necessary?

A The issue is not before the board and naturally they  
did not pass on that issue. The issue was never  
passed upon one way or the other.

Q It was never before the emergency board?





A As far as I know the issue was whether to put the extra man on.

Q Were there any changes at all in the diesel rule between 1937 and 1956 in your New York Central agreement?

A The only one I know of is the one which was touched upon yesterday, the so-called watching rule on high speed trains.

Q That is the only one you can remember?

A That is the only one I can think of right at the moment as affecting the general --

Q That is the one requiring the helper to keep on the scene?

A On certain trains.

Q Certain passenger and fast express trains?

A That is right.

Q You do not recall any other change?

A I do not, right now, I can't think of any.

Q I suggest to you, on the basis of my investigation, Mr. Borntrager, that there was a change in 1950, do you remember, in relation to 90,000 pound exception?

A I think that was in 1937, was it not, contained in the 1937; maybe it was brought up again in 1950, but the 90,000, I think, was in the 1937 agreement originally. It may have been brought up in 1950.

Q Well, let me put it this way, your 1937 agreement, am I right, and the agreements which followed it



for some years provided the kind of exception which is contained in Exhibit 1 before this Board, which I shall read to you in a moment. It is to be found on page 24 and 25 of Exhibit 1. It contained an exception which in effect said that a locomotive was in anyway a and therefore the helper was not to be needed on diesel electric, oil electric, gas electric, or other internal combustion, steam electric or electric, of not more than 90,000 pounds weight on drivers in service performed by yard crews within designated switching limits. Is that roughly it?

A Yes, that is the same thing that was in the 1937 agreement, 90,000 limit was brought forward in this one you are reading from.

Q That was the same thing you had in the 1937 and subsequent agreements?

A I believe that is correct.

Q You had the same thing with regard to the self-propelled cars. They were all excluded?

A I believe that was in the same agreement, yes.

Q I suggest to you, Mr. Borntrager, that in your agreement of 1950 an amendment was made, and this is a mutual agreement between the two parties always, an amendment was made whereby any locomotive weighing 90,000 pounds on drivers or less would also have a helper on it if that locomotive was installed after June 1, 1950. Do you remember that?

A I don't recall that too much, because we had none of them and I do not recall the detail. We had nothing



but Budd cars that came within that category. I do not recall that particular detail.

Q That change was made on the Budd cars?

A 90,000 was the only thing that was involved. This 90,000 was the only piece of equipment, Budd car qualified for that, so I don't recall the detail about other locomotives.

THE CHAIRMAN: You said "installed". Do you mean purchased by the railway?

MR. LEWIS: I used the word which I saw in the American agreement. I imagine it means acquired or put into service.

MR. SINCLAIR: My learned friend did not refer to all the rule. This also applied to the self-propelled equipment which is different.

THE CHAIRMAN: It is not too clear, or if it is not too clear you will have the opportunity to re-examine, Mr. Sinclair.

MR. SINCLAIR: That is what he said.

MR. LEWIS: You are quite right; there was a provision in Exhibit 1 that rail motor cars installed subsequent to the date of this agreement, weighing more than 90,000 pounds, shall be the subject for negotiation in this agreement.

MR. SINCLAIR: Yes, and you did not read that.

MR. LEWIS: No. I looked at it before. However, with great respect, Mr. Chairman, I will be glad to read it. I do not think that it makes any difference. It says here, "It shall be the subject for negotiation between





the company and the Brotherhood of Locomotive Firemen and the Canadian Pacific." My instructions are, Mr. Borntrager, that a helper is not used on the Canadian Pacific even in multiple self-propelled units.

BY MR. LEWIS:

Q Were you informed about that?

A Yes, I understood that.

Q But on your railway a helper is used?

A That is right.

Q On multiple self-propelled units because the moment you have more than one you exceed the 90,000?

A That is the limitation.



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Q But you don't recall, apparently, the change that I suggest was made in 1950?

A I don't recall the details of it. I know the only thing we had was the 90,000 pound Budd cars.

Q Therefore, Mr. Borntrager -- I am interested because my friend Mr. Sinclair had quite a discussion with you about this, and at page 753 of yesterday's proceedings -- of the transcript of yesterday's proceedings -- Mr. Sinclair had quite a discussion with you about the sense of this exception.

"Q. Have you any comment that you wish to make on the agreement that requires you to maintain a fireman on a locomotive, except road locomotives under 90,000 and yard locomotives under 90,000 pounds? What do you think of that type of exception?"

And you went on to say:

"I think it indicates the absurdity of this rule."

It is a little difficult because you don't seem to recall it. But if I suggest to you that exception does not exist on your railway and that it has not existed since ~~January~~<sup>June</sup> 1, 1950, your comment is not very much in point, is it?

A The comment I made was that it seemed out of keeping that once you exceeded that 90,000 pounds, putting two Budd cars together, a second fireman was required, because look out duties



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would be the same in both cases, and that seemed to me very inconsistent.

THE CHAIRMAN: Is your question as to Budd cars or yard engines, because the witness answered as to Budd cars.

MR. LEWIS: My question is dealing with yard engines.

THE WITNESS: I said yesterday we have none. My comments are only with regard to Budd cars. We have no light engines.

BY MR. LEWIS: You are now saying that the comments you made at pages 753 and 754, I am suggesting, have nothing to do with yard and road locomotives but only with Budd cars? That is not what you said yesterday.

A That is the only one, because it is the only type of equipment we have in that a category.

Q So that your general comments about absurdity would be relevant only to the Budd cars in your service?

A That is the only one I can comment on because I have no experience of the others.

Q Right. And because you have no experience now, and have not had experience with locomotives like this 90,000, isn't it a likely suggestion -- I am not dealing with Budd cars at the moment; I will come to that later -- isn't it a likely suggestion that the presence of that exception is due to the fact that neither the railway nor the union had any idea that locomotives of less than 90,000 pounds





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would be used, or what they would be used on?

A That would be presumption on my part. I don't know what governed their thinking when they made that.

MR. LEWIS: I feel a little hurt, Mr. Borntrager. You had no hesitation about making assumptions when Mr. Sinclair was putting questions to you.

THE CHAIRMAN: That is comment.

MR. LEWIS: Yes, I appreciate that.

MR. SINCLAIR: Why make it, Mr. Lewis?

MR. LEWIS: I make them; I said I appreciate they were comments. I don't apologize for it.

THE CHAIRMAN: We will go on from there.

BY MR. LEWIS:

A Now, on the Budd cars, isn't there logic in the distinction between the one unit and multiple unit operation?

A In what way?

Q In the fact that you would want a helper -- that you might need a helper less on one unit than on a multiple unit?

A I can't see any use for them in either case.

Q You can't see any use for them in either case?

A No.

Q Now I gather from some comments you made yesterday, Mr. Borntrager, and from some comments which you made this morning that in order to overcome some of the difficulties in switching that now exist you would have to make certain mechanical adjustments in the yards. Is that right?



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A I believe there will be a few points.

Q Where you would have to install new signals -- automatic signals?

A They would not be automatic signals. They would be signals to be operated by the ground man in such a position that the engineman could see it; instead of relaying the signal by hand, possibly he would relay it by a signal up on the mast.

Q I see. And then in other places you would have to have dual control of the engines?

A Correct.

Q With the engineer moving from one side to the other?

A Correct.

Q I have not just seen one myself on the Canadian Pacific, so I am not speaking from my own experience, but does that always require stopping the engine when one moves from one side to the other for the control, or could it continue?

A I, frankly, have not seen it either. I think they are in use -- Mr. Koster yesterday mentioned the fact -- I think it is very quickly done, from the way he talked yesterday.

Q But you don't know the details?

A No. Frankly, I have not seen one, to be honest with you.

Q And could you tell me, Mr. Borntrager, how much coal would there be in a scoop, in a shovel? What would be the weight of a scoop of coal --?

A Really, I have never given that thought. I do not



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know.

MR. SINCLAIR: It depends on the size of the scoop.

THE WITNESS: I would say so, and because that seemed to be a rather facetious answer I did not give it. I am sure Mr. Lewis means a regular railwayman's scoop.

MR. LEWIS: I am sure that Mr. Sinclair knew that too, and his comment would be more amusing than relevant. But I am grateful to him for introducing some amusement in a case as heavy as this.

How much would be the weight of coal in an ordinary scoop, Mr. Borntrager?

THE WITNESS: I do not know.

HON. MR. McLAURIN: I tried it ten years ago, and it is too much.

MR. LEWIS: I have no doubt.

HON. MR. McLAURIN: I should have added that I was ten years younger, too.

MR. LEWIS: I am afraid, sir, that your words may be quoted by the Brotherhood when next it asks for a rise in pay.

MR. SINCLAIR: They would not be heard.

BY MR. LEWIS:

Q Mr. Borntrager, do you know how many scoops of coal a fireman on a hand-fired coal engine could put into a fire box in a minute?

A No, I do not. I never timed one.

Q You would not know that. Can you tell me -- would you know -- how many tons of coal the various types





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of steam engine in use on your company -- the hand-fired ones that are in use -- how many tons of coal they would consume?

A On a run, you mean? Oh, I presume some eight or ten tons, maybe 12.

Q Between eight and ten, up to 12 tons?

A I would suspect that, offhand.

Q Mr. Borntrager, let you and I do a little arithmetic. If I suggest to you that a fireman could put in somewhere between 12 and 15 scoops of coal in the fire box in a minute -- I know you said you don't know how long it would take -- would you, from your experience be able to say whether that was wild or not?

A It would seem a bit high to me.

Q It would seem a bit high ... well, if we say ten or 12, would that seem more reasonable?

A If I were to make a guess at this -- if this is to be a guessing game -- I would say eight or ten; around eight to ten.

Q I will take your ten. Let's compromise and take ten.

THE CHAIRMAN: It is still a guess.

MR. SINCLAIR: Some compromise.

MR. LEWIS: Well, he said between eight and 12, and I am taking ten.

THE CHAIRMAN: According to the witness it is still a guess. It is not a satisfactory basis.

MR. SINCLAIR: I realize that, Mr. Chairman, and perhaps I would do better to put that in in the



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proper way, and obtain the information from some one who has had experience.

THE CHAIRMAN: Guesses are not worth while.

BY MR. LEWIS:

Q Mr. Borntrager, since you don't know how much coal goes into a scoop or how many scoops a fireman can put into a fire box in a minute, please tell me how you were able to say to this Commission that in the case of a hand-fired engine a fireman would be shovelling coal 75 per cent of his time?

A I got that primarily from people who have fired in hand-fired locomotives, and I believe there was some testimony -- I read it somewhere -- probably in the stoker's case. I was under the impression at that time that the Brotherhood of Locomotive Firemen put in some testimony about time consumed in firing locomotives, and, as I recall, it was around that figure.

Q Could we summarize it, because you have just heard the chairman indicate that guesses are not very much use. Could we summarize it by saying that the statement that the fireman would spend 75 per cent of his time firing was not based on any knowledge of your own?

A No detailed knowledge. It was from evidence, I think, in some cases and also from discussions with people and also from discussions with people who had hand-firing experience; and I believe it



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it was applied to heavy runs; it would not be always that. That was on heavy tonnage trains.

Q Yes, in other words you now suggest that even this information which you gathered from various sources would apply only to --

A I think, probably, the heavy runs might be the ones they had in minds.

Q Yes. Then, again, if my notes are right, Mr. Borntrager, you said you did not know of any case where a fireman on the New York Central was held responsible, in the steam days, for failing to keep a look out or observe signals?

A No serious cases, although there have been small cases, yes. In very serious cases I have never known one but where he had something to do.

Q I beg your pardon?

A I have never known a case but where you would always find he was doing something. Maybe he was . shovelling coal, checking equipment and so on.

Q So you have no knowledge of any case on the New York Central where a fireman was disciplined for failing to keep a look out?

A I cannot recall any serious cases. There may have been, but I cannot recall any serious cases.

Q What is the distinction in your mind between a serious case and a case?

A Well, suppose there is a collision -- I don't recall any fireman ever saying that there was not something else that was occupying him. I don't recall any





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Q You cannot recall any case where a fireman did not try to find an excuse.

A I do not know whether it was an excuse or not, but he was not available. He may have been very honest about it.

Q I am instructed that there have been numerous cases of discipline on your railroad of firemen for failure to keep a look out or to observe signals; what would you say to that?

A I think there have been probably, but I was referring to when you come to serious cases like rear end collisions. I have never seen one; a serious accident, I have never seen one.

Q May I respectfully try to be of assistance to you since you are under oath. What you mean is you do not recall having seen one?

A I do not recall.

Q I think that would be a safer statement.

MR. SINCLAIR: According to my notes, and you will correct me if I am wrong, you are referring --

MR. LEWIS: What page is that?

MR. SINCLAIR: Page 735, the one you had before.

THE CHAIRMAN: While you are checking that we will have a short break.

-- Recess



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KARL A. BORNTRAGER, Recalled:

MR. LEWIS: Mr. Chairman, my friend has drawn to my attention an error in page numbering I might have committed earlier. I drew your attention to the effect of this witness' evidence, and the last questions I asked him about firemen being disciplined or being responsible for a look out and so on, and said that had occurred at page 735, and then my friend added that that was the page I had referred to earlier. Well, the page I had referred to earlier in connection with the 90,000 pound exception and which I read from was page 753. If I said 735, I misread the page number.

BY MR. LEWIS:

Q This is what you said, in view of Mr. Sinclair's comment, at page 735:

"A. Go back to the days of steam on either passenger or freight locomotives. The fireman, well, his duties were practical. He had to maintain a look-out. As a matter of fact, at least in the hand-firing days, 75 per cent of his time was firing, and in the stoker days he had that, his line of responsibility was maintaining steam, looking after his equipment, fuel and so forth. Consequently in those days we could never hold the fireman responsible for look-out duties. I have heard many investigations as a superintendent, one where we had an accident where the fireman was not down fixing the steam, looking after the



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coal, or something; so I do not know of any time, of any serious accident that you could hold the man responsible for it. Well, if you could not hold him responsible then, I do not see any particular reason. We hold the head brakeman or the front trainman responsible. He did not have duties like that. He could do the look-out job. I do not see any reason, now that we are taking away the fireman's firing duties and still have the head brakeman available why we need anybody on duty look out on the left side of the locomotive."

What I would refer you to is your statement that in those days you could never hold the fireman responsible for look out duties?

A I also mentioned serious accidents.

Q Yes, and that you never knew one yet where you had an accident where the man was <sup>not</sup> ~~knocked~~ down fixing something, and I suppose you meant a serious accident?

A Yes. "Serious" is mentioned in there, and that is what I meant. I would agree with you that there has been discipline put on firemen but never on a serious one, for a serious accident.

Q You do not recall any serious accident?

A I never recall a serious accident.

Q Where the fireman was disciplined for failing to keep a lookout?

A He would also find some reason that we could not hold him on.



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Q But you always accepted the reason he gave?

A Yes, assuming the reason sounded reasonable.

Q Now, let me go back for a moment to the dual control matter. From your experience, Mr. Borntrager, do you suggest that if you had dual control on your engines, in cases where you were on a left curve or there was some obstruction to the engineer's view on the righthand side he could move over to the left side of the engine? Is that what you are proposing?

A That is right.

Q Where would the ground crew be at that time?

A They would be lining themselves so they could give the signals on that side.

Q We will follow that up for a moment. They had been up to this point on the righthand side relaying signals to the engineer who was on the righthand side? Right?

A They probably -- in the last move before that they probably were.

Q And then you have the engineer moving over to the lefthand side to the second control? Right?

A That is right.

Q And does he do that while the train is in motion or does he stop the train?

A I said I have never seen them in effect but I do know they are working. We heard Mr. Koster explain it yesterday. I would assume that the train probably would stop, although I do not know.

Q Let us make both assumptions and you tell me what





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would happen. Let us make the assumption that the train has stopped, that the engineer has to stop the train and then move over. He has to wait, does he not, according to the rules, for the ground crew to get over to the lefthand side as well?

A I would assume in a move like this, which is rather special and not made too often, the ground crew would have to get around there on that side anyway. That is the side where they should be on on account of the clearance reasons.

Q Pardon?

A Probably on account of the clearance reasons that is the side they should be on.

Q And as a matter of fact you have this same rule that obtains in Canada, do you not, that if the engineer cannot see a signal he must stop?

A That is correct.

Q So he would have to wait, would he not, for the ground crew to get over so that he could see their signal before he could start up?

A Well, he could not make a move until the ground crew got in position. They would have to be in that position. In the case you have in mind there is only one position the ground crew would have to be in, on that side of the cars.

Q They would have to move over from the left to the right?

A Whatever the last move was.

THE CHAIRMAN: What is that rule you have referred to?



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MR. LEWIS: That is 7A in the uniform code. I am paraphrasing from memory but it is to the effect that if a signal is not understood or he cannot see it he must stop. It must be considered a stop signal.

THE CHAIRMAN: What page is that?

MR. LEWIS: 7A, page 15.

THE CHAIRMAN: That last sentence, "if signals disappear from view", does that mean fixed signals or does it mean a man waving his arm?

MR. LEWIS: In the context of that paragraph I am instructed it means a man waving his arm, although presumably it could mean any other kind of signal that he is relying on, I would think. In the kind of movement we are discussing he would be relying on hand signals and if they disappeared from view he could not proceed.

BY MR. LEWIS:

Q We are at the point where the ground crew, which we assumed was on the right side because the engineer was on the right side, would have to move over to the left side because the engineer had moved over to the left side?

A No, they would move over because if this move was to be made that is the only side probably they could operate on.

Q Yes?

A Not because the engineer moved over.

Q Pardon?

A Not because the engineer moved over. He would be moving over to meet up with their move.

Q And the two would sort of coincide?

A That is right.



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Q I should like a little clarification on this pool of 150 <sup>engines</sup> / that you have for your high speed mainline passenger trains. How many diesel engines does the New York Central have altogether? You may have given that number.

A I think it is about 1,950. That is fairly close to it.

Q As a matter of fact, now that you mention it, I think you did give it yesterday and I did not write it down. Of that 1,950 you have 150 in this special pool?

A I believe there are 155 in the fast passenger pool.

Q And what is this pool? Does it get special attention, special treatment or what?

A No, it gets regular maintenance, maintained largely at our Harmon terminal which is just outside of New York. It is a changing point from electrical power to diesel power, and then it moves out over the railroad to various points, ending up maybe one, two, three or four days later back at Harmon because it goes many cycles all over our railroad. It ranges in cycles.

Q Are they any particular make of engine?

A No, they are passenger locomotives.

Q Are they all the passenger locomotives that you use on your railroad?

A No, we have a few others but this is the main pool. I would say this probably handles 80 per cent or 90 per cent of the passenger --

Q Of the passenger?

A At least 80 per cent of the passenger mileage.





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- Q And are they looked after with particular care?
- A Oh, I don't know that it is particular care.  
They are looked after with the regular maintenance schedule of maintaining them.
- Q No better than the maintenance attention given to the freight yard engines?
- A I would say that it is equivalent to it, whatever it is necessary to do, the cycles are maintained on that basis.
- Q And they are all the car body type?
- A They are the car body type.
- Q Have you ridden in the cab of an engine many times?  
I suppose you have?
- A I have ridden quite frequently.
- Q And you agree with Mr. Koster apparently --  
I do not know whether you heard his evidence --  
that the front end trainman observes the condition of the train, for which he looks back, does he not?
- A That is correct.
- Q And it takes him just a couple of seconds or so?  
That is what you said?
- A Well, a few seconds depending, of course, on the circumstances, a few seconds, yes.
- Q What size train do you have in mind when you say it would just take a few seconds?
- A Well, I would not think any train -- we go up as high as 140 or 150 cars. If that train was stretched out around a curve four or five seconds would determine whether there was anything wrong.
- Q Four or five seconds for a train of 140 or 150 cars?



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A9 That is right.

Q That is your statement?

A Sure.

Q Then, you informed the Commission that the engineer, in addition to the instructions contained in the rule book, is instructed through special bulletins and so on from time to time?

A That is right.

Q And you said that the same thing is true for the firemen? Am I right?

A They have special instructions to firemen at times, yes.

Q Are those written instructions?

A They could be in the form of a bulletin or they could be verbal.

Q Have you seen the fireman's duties written up?

A Only in the book of rules.

Q You have not seen any other?

A Nothing specific, no.

Q You have not seen them, for example, set out in the examination books that the fireman has to study?

A Oh yes, the examination books, but that is for examinations. I have seen those, yes.

Q Are the duties of the fireman as distinct from the engineer set out there to your knowledge?

A They are, the duties, and for promotion they have to answer those questions.

Q And can you recall what the fireman's duties are that are set out in any of the written instructions which you have seen?

A I cannot recall in detail other than the general



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ones in the book of rules.

Q What are the general ones in the book of rules that you keep on referring to?

A Well, they say that the fireman is responsible for maintaining his power and reports to the engineman and so forth and so on.

Q Which book of rules are you referring to when you say they contain that?

A The operating book of rules.

Q Would that be the same as our uniform code?

A I do not suppose it would be precisely but it may be in a general way.

Q But it is that kind of book you have in mind?

A Yes, that is right.

Q And you say they set out the rules for the firemen?

A They do.

Q I presume from what you have said they set out these rules in relation to the steam locomotive?

A Well, they have general rules as to what the fireman should do and it does not specifically state steam locomotives.

Q I want to get this straight on the record and attempt not to mislead you. Am I right that your book of operating rules imposes certain responsibilities on all the members on the train? The members of the train crew and the members of the engine crew are all held responsible for many of the rules? Is that right?

A That is right.

Q I am not talking about those. They would form the bulk of your operating rules, would they not?

A Well, each one has certain rules set out for him in the book of rules.



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Q In addition to that each one of the members of the crew has certain rules applicable to him alone which are set out?

A That is right. The fireman has it, the brakeman has it, the conductors and so forth.

Q And the engineer?

A And the engineer.

Q That is in your rule book?

A Yes.

Q Those are the only rules you can remember of those set out for the firemen?

A That is all I can specifically remember. That is right.

Q Now, I do not have a map before me but on your railway you go through New York, Chicago, Cleveland, Pittsburgh, some very large and industrialized parts of your country?

A That is correct.

Q And a pretty large portion of your switching would be industrial switching. Is that right?

A A considerable amount of industrial switching is involved. That is right.

Q Have you ever made a study of the facilities available around the establishments where industrial switching is done in some of your centres?

A I do not believe I understand what you mean by a study of --

Q Have you made a study of the clearances available,





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either top clearances or side clearances or curvatures of the tracks and so on?

A Clearances are studied.

Q Have you yourself made a study?

A No, I have not personally. That is what you mean, personally?

Q Yes.

A No, I have not.

Q Because throughout your evidence you say there may be some isolated instances where signals would have to be given to the fireman; that is the kind of phrase you have used. Is that right?

A That is correct.

Q Am I being fair?

A That is correct.

Q I am suggesting to you that unless you made a pretty detailed study of your industrial switching in particular you would not know whether those cases were isolated or numerous, would you?

A I know in a general way that there are a few cases I have in mind. I have not made a specific study of all of our close clearances.

Q Perhaps it will help if, with the chairman's permission, I say this to you. I readily agree with you that it is more logical and, wherever practical, sensible to give the signals to the engineer.

A That was my testimony yesterday and we agree to that.

Q It is obvious to me as it is to you that if I am to tell that fellow what to do then if I can it is much better that I tell him directly than through some intermediary?

A That is correct.



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- Q But what I am turning my attention/<sup>to</sup>now, having agreed on that point, is your statement about the isolated instances. I am asking you whether you are certain about the accuracy of the word "isolated" in the case of the New York Central?
- A I have been over all of our large terminals. I have been at all our large industries, and I can say that there is controversy about that where we have to switch from that side, the lefthand side.
- Q That is still your statement?
- A That is right.
- Q In addition to the engine crew on the engine in your yard switching and to the ground crew immediately concerned with the train on which the engine crew is operating what other railway personnel might be around your yards, Mr. Borntrager?
- A There would be yard masters, yard clerks.
- Q You would have section men?
- A You would have section men.
- Q You would have maintainers?
- A Signal maintainers might be if there is a hump.
- Q You would have your repair men?
- A That is correct.
- Q You would have cleaners?
- A That is correct.
- Q You would have engine wipers?
- A That is correct.
- Q Or would they be assumed in the term "cleaners"?
- A They would be in some instances.
- Q You would have the various crafts, electricians, machinists and so on?



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A Everything that makes up the operation, maintaining of the railway, I assume the appropriate personnel.

Q At some time or another some of them would be in the yard while the switching is going on. Is that right?

A That is right.

Q My friend gave you an example of the left curves. Suppose that the nose of the engine is coupled to the car; in other words, you are pushing the train. Do you follow me?

A Yes.

Q If you go forward and then if you go back, which is really forward because the nose is in the opposite direction, if you come back, and you are pulling, would the engineer not be looking toward the cars which are attached to the nose of the engine, for his signals from the crew. Is that right?

A He would be looking in the direction of the movement.

Q Perhaps I have not made myself, Mr. Borntrager. Suppose the nose of the engine is attached to the cars.

THE CHAIRMAN: Is this the yard switcher?

MR. LEWIS: This is the yard switcher.

BY MR. LEWIS:

Q The cars in this case are ahead of the engine rather than behind it, and when the engineer is going forward he is pushing the cars?

A That is right.

Q Then he has to make a back up movement, the men to give him the signal are with the cars, are they not





A They have three men. There could be other men that will stop the movement, will not make a back up again until he gets the proper signal in the other direction.

Q He gets it from the man ahead of the point of the movement?

A From the direction in which the movement is going to be made.

Q You are suggesting that the ground crew would not be in front of the man signalling him to back up?

A The ground crew consists of three men and they can deploy themselves so that they will be in a proper position to give a signal in any direction he moves.

Q Have you never seen an engineer when he is making this back up movement receiving his signals from the ground crew who are ahead of him, and therefore he is not looking in the direction in which he is going? You have never seen that?

A I do not know that I can recall seeing that when there is ground crew enough available to direct your movement.

Q You have three men?

A Three men, that is right.

Q From that you conclude that the second man is not needed for lookout purposes?

A That is right.

THE CHAIRMAN: Am I not right in saying that the engineer sits on a sliding seat, which slides forward and backward?

MR. LEWIS: That is right, sir.



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BY MR. LEWIS:

Q What I am driving at is this. Because of the way the signal comes he has to concentrate on that. Now, I come, Mr. Borntrager, to your statement that the presence -- correct me if I am wrong -- of the helper on the engine has a tendency to distract the engineer.

A That is right.

Q Is that what you suggested? Then, yesterday you gave three cases of accidents. I find it difficult -- and as I said before, I have not had a chance to read the transcript -- to follow the relevancy of each of those cases. The first case you gave was at Little Falls, around April 19, 1940.

A That is right.

Q And it involved a steam engine?

A That is right.

Q And you informed the Commission that the engineer and the fireman were both killed, and the road foreman could not give a coherent story, is that right?

A That is as I recall it. It was never very clear just what happened with that engineer.

Q Your comment as to that accident was that it was never very clear.

A Never very clear.

Q The second one was one that you said happened the day after Labour Day, whenever that was, in 1943?

A That is right.



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Q At Canestota.

A That is right.

Q And in that one you informed the Commission there was also a foreman on the engine, a road foreman, and in that case all three men were killed?

A That is right.

Q So I assume that in that case, too, it never became clear what really happened?

A That is right, we never know.

Q Then, we came to the very recent accident at Ripley, Ohio. My note of yesterday says "Ripley, New York?"

A It was my error.

Q Ripley, Ohio, and you also dealt with it this morning, Mr. Borntrager. There has been an investigation by the I.C.C. Is that true?

A There has been a hearing, I understand; I do not believe the report is out yet.

Q Were you at the hearing?

A I was not.

Q On what did you base your summary of the events, Mr. Borntrager?

A I based it on the statement from our operating people plus a tape that recorded the movement of the train.

Q Do you know whether any dermerit marks were set against the fireman in that case?

A I don't know what disposal was finally made, no.

Q You did not discuss that?



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A No; I am not too familiar with that; I just know that was the findings.

Q You just what?

A I knew that was the finding that I gave yesterday of what happened. I don't know the final details.

Q Finding by whom?

A The investigation which is to report --

Q Which investigation?

A Of the accident.

Q Investigation made by whom, Mr. Borntrager?

A By the New York Central and the Interstate Commerce Commission. I heard ---

Q You just told us, and my instructions are you were quite correct, a moment ago that the Interstate Commerce Commission had not yet made its findings.

A It had not made its findings. I said this was an investigation, information, I got it from people who were at the investigation that this is what the fireman said.

Q You just said this was a finding. You did not mean it was the finding of the Commission?

A No, the finding is not made. As I told you before, there has not been a finding on it.

Q I suggest to you -- correct me if I am wrong -- that the information given you by the operating people of the New York Central leaves you to believe that was their conclusion. Is that right?





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A Plus the tape that I saw.

Q Which led you --

A Which fitted in with it.

Q Which led you to come to the conclusion.

A That is right.

Q Now, on this forestalling lever you were talking about, the evidence, you say, led you to conclude that the engineer made use of the lever, moved it.

A That is what the fireman is alleged to have said.

Q What happens when this lever is moved?

A There is a whistle sounds the alarm that tells --

Q If the signals are not clear?

A If the signal is not clear you get an alarm signal.

Q So that the mere moving by the engineer of this forestalling lever does not release him without a warning if the signal is not clear?

A It does not release him from what?

Q He does not merely rely on his having released the braking which is what he does when he moves this forestalling lever. Is that right?

A I am afraid I am not following you. It does not release him from ---

Q Well --

A Would you mind explaining.

Q As I understood you, you said that the induction unit in the engine comes into contact with the induction unit on the rail, the signal.

THE CHAIRMAN: Passes over, I think.



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THE WITNESS: Passes over; they do not really touch.

BY MR. LEWIS:

Q Passes over; if the signal is not clear, then there is an automatic braking application. Is that right?

A Unless you move the forestalling lever.

Q Precisely. If he moves the forestalling lever, then he prevents the braking application there?

A That is right.

Q If he moves this forestalling lever and the signal is not clear, then there is also a device whereby he gets a warning through a whistle.

A That is right.

Q Do you know whether that whistle went off in this particular case?

A No, the statement -- at least, I am only quoting again -- the statement by the fireman and was that the whistle did not sound/the engineer mentioned the fact that it did not sound.

Q Yes. Then the fireman and the engineer discussed it, did they?

A That is as I understand it. The fireman said, "I think the signal went green just before we hit it".

Q Are you sure about that? I am not going to belabour this. Are you sure that is what he said, or is the fireman's statement to the



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effect that the engineer and he concluded from the fact there was no whistle that the signal had gone green?

A No, the statement was made, as I understand it -- unfortunately I do not have it with me. I wish I knew this was coming up so that I could have brought it. I did not know there was going to be a controversy about it. The statement, as I understand it, was that the fireman said to the engineer, remarked about the whistle not sounding, was that, "I think it went green just as we hit it", or words to that effect.

Q Well, let me put it to you this way. My instructions over the long distance telephone are that the construction I gave you is what happened and is what is contained in the fireman's statement, which leads me to suggest to you, Mr. Borntrager that it is a little too early, is it not to try to put to this Commission what really happened in this very regrettable accident.

A There was certainly a lot of confusion on that engine at that time between conversation between the fireman and the engineman; that is for sure.

Q You are suggesting to the Commission that this opportunity for conversation between the fireman and the engineman was the cause of the accident?

A I would draw that conclusion, if the engineer put his brakes on and was complying with the rule, without any conversation, I would suspect





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that would be what he continued to do, that is what he normally should have done.

Q You say you would suspect without this conversation he would have continued to apply his brakes?

A Sure he would; that was the rule.

Q You are assuming that he would have done that?

A No other reason for doing it.

Q Do you not know of any case where a fireman, an engineer or a conductor ignored a rule, assuming that you are right about the rule?

A I do not know of any reason why he should not do it because ---

Q I am asking you whether you know of any case where one of your employees, for one reason or another, failed to observe a rule? I do not like to say so, but I am sure it is true that rules are broken, unfortunately.

A Yes.

Q One does not have to be offensive to anybody to say that because human people make errors, do they not?

A That is right.

Q I assume that even you, Mr. Borntrager, have broken some rules.

A I do not think an engineer would deliberately do that virtually to commit suicide once he started that movement, unless some other extraneous conversation was going on.

Q Mr. Borntrager, what you are really saying, I suggest to you -- and correct me if I am wrong --



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is that this man/<sup>who</sup>would not do anything to commit suicide if he were alone was led by, or influenced by his junior helper to commit suicide. That is what you are saying.

A I am saying there was conversation there. I feel that had something to do with what the engineer performed.

Q Since you have put it that way I have no quarrel with you. You may have any feeling you like, that is your statement.

MR. SINCLAIR: That is not a question.

MR. LEWIS: No.

MR. SINCLAIR: We are here to ask questions of witnesses and not to have lawyers make statements.

THE CHAIRMAN: I think that was indicated before. We are interested in evidence not comment.

BY MR. LEWIS:

Q Now, many of your engineers necessarily run trains during the night?

A That is right.

Q I suggest to you, Mr. Borntrager, is it not possible that if the engineer were alone on a night run which lasted some hours he might become a little sleepy at times?

A That might be true.

Q And would not that be a hazard?

A I still think that a man <sup>I</sup>who is on duty has a duty to keep awake, and/<sup>I</sup>think that the runs are not of such long duration that he should



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not keep awake.

Q What I am asking you, Mr. Borntrager, is whether in that situation the qualified helper -- and I am using the word "qualified" -- on the diesel engine might not serve a purpose in either preventing the engineer from dozing off, or being able to do something for the engineer who has dozed off.

A Well, I do not believe that we can expect to have one man on the engine to keep another man awake if that is the only purpose. We expect to have that one man awake, to see to it that he is.

Q Then, you said in your experience you had only one case where the fireman took over from the engineer when the latter overlooked a train order. Is that right?

A It was not a train order.

Q What was it in that case?

A Do you want me to recite the situation?

Q Yes, please.

A The situation involved a passenger train which is operated around a reverse curve at restricted speed at an excessive speed, so much so that the fireman stopped the movement, took over from the engineer.

Q Do you mean actually took the controls over?

A That is right, and brought the train in.

Q Was there a physical scuffle?

A I do not know that there was a physical scuffle; but at least he stopped the train, and brought



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the train in. I do not know about a scuffle.

Q Do you know of any cases where the fireman or the helper brought something to the engineer's attention without having to take the engine over?





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A No, I don't know that.

Q You don't know of any such case, but there may have been?

A There may have been, sure. My statement ran to the effect that this was the only one I ever knew of him taking over.

Q And that is as far as you intended it to go?

THE CHAIRMAN: In the case you have just referred to, could you find out what type of diesel that was?

THE WITNESS: It was a steam locomotive, sir.

BY MR. LEWIS:

Q It was a steam locomotive. But while we are on the point, you would agree, would you, that there might easily have been cases where a fireman drew things to the engineer's attention without having to take the engine over?

A I suppose there are cases of that nature.

Q And I suppose, Mr. Borntrager, that in most cases these incidents would not come to the attention of railway management?

A I would not think so.

Q Now I reach your evidence this morning, Mr.

Borntrager. You said this morning that if the helper were not there on the diesel engine that sometimes -- rarely, I think, you added -- it might be necessary to stop the train in order that the engineer might make certain adjustments that the helper now makes?



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- A That mechanism might be for a resetting device. I think I qualified that by saying that most of these could be made automatic.
- Q I beg your pardon?
- A I think at the time I said that all of these resetting types would be made automatic.
- Q You are looking to the day, are you, when all these security devices, as you have called them, will become automatic?
- A I think so. The engineer could do it without leaving his seat.
- Q Are developments taking place now?
- A They are right along, and I think that the diesel is still in the development stage, rather like the automobile was, and that went on for many, many years and is still going on.
- Q Would it, in that case, not be wise, Mr. Borntrager, to wait until some of these developments have been realized before making the decision that is now before this Commission?
- A No, I think we have gone far enough to know the delays are not excessive, and that comes under the managerial prerogative to determine whether or not they are excessive and whether these devices would be profitable to put on. I think they are so insignificant now that we certainly cannot afford to have a man to go and reset the devices. We would stop the train instead.
- Q Stop the train instead? Does any hazard arise out of a stop which has not been previously



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arranged for?

A We are stopping trains everywhere on this railroad. We have got signals, and are able to stop a train without any trouble at all.

Q So a non-scheduled stop does not present any difficulty at all?

A We are stopping trains every minute of the day on the New York Central when the signals are against them.

Q When the signals are against them?

A That is a stop, just the same as a stop for a device.

Q It would not make any difference?

A It would not make any difference whatsoever.

Q Now, a final question, subject to what I may be advised. You said, I think, that the management of the New York Central Railway is -- I don't know whether you used this word, but this is the impression I got -- is unanimous in its opinion that helpers are not needed on diesels engines in freight and yard service?

A I don't think I used the word "unanimous". I think my answer was: The president and responsible operating officers --

Q Are of one mind?

A That is right.

Q Have you, Mr. Borntrager, made any investigations as to how your engineers feel about this?

A No, I have not.

Q Have you made any investigations about how your



brakemen and trainmen feel about it?

A No, I have not.

Q Or about how your yard masters feel about it?

A No, I have not.

Q Your information is merely as to your associates or colleagues in the management of the railway?

A That is correct.

MR. LEWIS: That is all, Mr. Chairman.

EXAMINED BY MR. SINCLAIR:

Q My friend Mr. Lewis asked you certain questions about the exception to the diesel rule under your agreement and indicated that on the diesel exception there had been a modification in 1950 that said that that exception had been withdrawn with respect to power purchased on the New York Central after 1950. You said that as far as you were concerned you did not know about that, because you had no yard diesels under 90,000 pounds weight on drivers. In so far as the Budds are concerned, has there been any modification that prevents you from putting Budds which are 90,000 pounds or less on drivers in the operation of your railroad since 1950?

A I don't know of any.

Q Have you purchased Budds and run them without firemen on the New York Central since 1950?

A We have.

Q You spoke to my friend in answer to his question





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with the help of the Commission, concerning this one case you knew of a fireman taking over. There is one thing that I think might require some clarification. Why was it necessary for the fireman to take over?

A In this case it developed that the engineer was intoxicated and was incapable of operating his train in the fireman's opinion. That is when he took over.

Q Did the engineman's union agree with the assessment made by the fireman in this matter?

A No. They gave that fireman a pretty rough time. A member of the committee came to me and said he was a dirty dog, and this and that, for doing it -- that he never was much good, anyway.

THE CHAIRMAN: Do you think the aspect of the matter is helpful?

HON. MR. McLAURIN: It was a steam engine, too?

THE WITNESS: That was a steam engine.

MR. SINCLAIR: Maybe I should state what the purpose of my question was. The reason for my question was that sometimes, in some circumstances an engineer and fireman stand shoulder to shoulder. In other cases we find that they are not quite shoulder to shoulder, and that the motivation depends on the situation, sometimes.

THE CHAIRMAN: I suppose you find that in other walks of life.

Mr. SINCLAIR: Even with barristers.

EXAMINED BY MR. MUNDALL:



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Q I just have one question to ask, and probably it is just a matter of clarification. I believe, Mr. Borntrager, you suggested, if I did not misunderstand you, that you thought there would be more safety devices put on diesel engines if the fireman was removed. Why did you suggest that?

A I don't think I meant safety devices. I think it was these resetting devices that the fireman now goes back and resets, and in order to eliminate, if it were found oppressive, the number of stops we have in doing this sort of thing we might put on devices that automatically do it so the driver won't have to go back.

Q The devices would be automatic? You would have a switchboard in front of the engineer?

A The engineer would press a button and reset it -- something of that nature.

Q But you did not have in mind any additional safety precautions or devices?

A The conversation at that time was directed to delays and the economics of eliminating delays.

Q It is the economy in eliminating delays that interests you?

A That is what we were discussing at that time.

Q And you don't feel that delays in any way add any hazards?

A No. That is my opinion.

Q You mentioned that it added no hazard where you have automatic signals, and I take it that



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covers the areas where you operate trains as little as two minutes apart?

A One would have automatic signals in that section.

Q What about the areas that have no automatic signals?

A If we were in an area without automatic signals we would be protected by other rules, like manual block rules where we block between one station and another so we would have protection of the trains moving into those blocks.

Q Supposing you had to rely entirely on flagging. Would you say it would add any hazard to an unscheduled stop?

A I doubt that it would. I think proper flagging is adequate.

Q Provided it is done correctly?

A Yes. Like anything else nothing is right unless it is done right.

MR. MUNDELL: That is all, thank you.

EXAMINED BY THE CHAIRMAN:

Q Mr. Borntrager, I think you said that switching is carried out at a low speed?

A That is right.

Q And whether the engine is pulling cars or pushing cars, so long as one of the ground crew has a view ahead of the point of movement -- do you understand how that phrase "point of movement" is used here?

A Yes. I was a little confused this morning.



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Q So long as one of the ground crew has a view of the situation ahead of the point of movement so that he is in a position either by himself or through another member of the ground crew to have his signals passed to the engineer, what is the necessity that you were thinking about of having fixed signals, for instance on a mast or something of that kind?

A There will possibly be some places where you can expedite the switching and get direct signals back to the engineer if you had a signal that the ground crew could operate and the engineer could see.

Q Well, then, you are speaking of expedition in that case and not of safety?

A There would be more expedition because I think you could deploy the ground crew, probably, in such a manner that you could relay the signal on; that would permit you to do it and get a direct signal from the man on the ground. <sup>Q</sup> I was asking you this: The answer you had in mind was, I think, expedition in giving the signal rather than anybody's safety?

A Partly both. We have put in signals like that for expedition, but they could be put in for safety, also.

Q I just want to get your idea if I may, and I put my question now, again: So long as a member of the ground crew is in such a position, either by





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riding on the point of the movement or by being on the ground, where he could see everything ahead at the point of the movement and is also in a position to have his signals passed, either directly or through someone else to the engineer, then would you say there is need for a fixed signal?

A No. If it was that way there would be no need for it.

Q And on the same premises, what would be the necessity for the engineer to change his side?

A In some cases where the clearances are such that the signal can only be seen on the lefthand side of the engine.

Q That is not what I mean; that is not my question.

A I am sorry, I don't understand.

Q My question is: So long as a member of the ground crew is at the head of the point of movement, either on the ground or on the train, whether it is a locomotive or the leading car, and in a position to see what is in front and what is happening in front, and have his signals passed to the engineer, where does the changing of the engineer's side come into that situation? As far as I can see, your answer is it would not.

A It would not in that case, no.

Q You want to elaborate?

A The isolated point I had in mind is where the clearance is such that the engineer cannot see the ground man when he is on the righthand side of the locomotive, but he could see the ground man



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if he were on the lefthand side of the locomotive and he would move over to the lefthand side for that particular movement.

Q It has been suggested that in a situation of that kind -- maybe I have not fully understood it -- the ground crew, or one of the ground crew men, would get on top of the car?

A There are some cases -- many cases -- where he could, but there are some isolated cases where you have overhead and side obstructions and in these isolated cases you would have to switch to one side.

Q Would these cases be taken care of by the ground crew moving from the righthand side to the lefthand side?

A In cases where they could not get a signal to the engineer, I think it would be advisable to use the dual control system mentioned yesterday.

Q I was not quite sure whether you said it was, or was not, the practice on the New York Central Railway to have a member of the ground crew riding on the front of the point of movement, whether it is a box car or a locomotive.

A Yes, he would ride there.

Q I was not sure what you said about that. And, of course, if the engine is leading and the cab of the engine is on the left hand of the engine, the engineer himself can see what is in front of him.



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HON. MR. McLAURIN: Yes, that is right.

EXAMINED BY MR. HUGHES:

Q May I ask about dual control? Witness, can you tell me whether or not dual control is actually in use in the United States?

A Frankly, I do not know. It may be but I do not know.

Q Have you any knowledge as to the cost of installing dual control?

A No. I have heard it is not excessive but what "excessive" means I do not know. I could not put a price tag on it.

Q Do you know whether or not in America they have developed a dual control that can be installed on these locomotives?

A I understand that the equipment people have developed, or are developing such things.

Q Before coming here to testify, did you give nay any thought as to the place the dual controls might take in solving the problem of removing helpers, or is this just a suggestion you picked up here?

A No, it had been talked about in railroad circles and some work has been done on the design, at least, of this particular type of equipment in the United States. It has been in use in Europe, I have heard, for some considerable time, so it is a practical thing today.

THE CHAIRMAN: Is there anything more? If not, we will adjourn until 2.15.



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Mr.SINCLAIR: We will have Mr.Shepp back  
then.

-- The Commission adjourned at 12.40 a.m. until  
2.15 p.m.





Tuesday,

March 12, 1957

AFTERNOON SESSION

--- The Commission resumed at 2.00 p.m.

JOHN SHEPP, recalled,

EXAMINED BY MR. LEWIS:

Q. Mr. Shepp, at one point in your evidence Mr. Sinclair read to you a description of the yard?

A. That is true.

Q. Which, as you know, I gave in the opening statement?

A. Yes.

Q. You suggested that that might be the impression to the ordinary layman, but it was not accurate. I am not repeating your exact words, but you said it was not an accurate description of the yard, that I had not appreciated the rhythm of yard work?

A. That is the way I put it, yes.

Q. In fact at page 426 you said:

"Certainly there is no evidence of anything like that to my knowledge or from my experience in the yards."

Dealing with my description of it, suppose I put my thoughts to you this way: a railway employee working in a



yard must expect the movement of trains, or engines, or cars; in fact, he must expect the movement of trains, engines and cars at any time on any track and in any direction?

A. That is right, yes.

Q. And that, as a matter of fact, is in your rules, is it not?

A. That he must expect movements?

Q. Yes.

A. Oh yes, naturally there must be the movements on the track.

Q. I must ask you to speak up, Mr. Shepp.

A. I say there must be movements on tracks, of course; that is what they are designed for, in yards.

Q. The point I am driving at is that one of the general rules in your Uniform Code -- I have forgotten the exhibit number off hand.

THE CHAIRMAN: Number 27.

BY MR. LEWIS:

Q. Contains the words I just read to you, that a man must expect the movements of trains, engines or cars at any time, on any track, in any direction?

A. That is absolutely correct, they must expect them.

Q. And every employee working in a yard must be on the lookout for that?



A. That is right.

Q. And in fact it happens, does it not Mr. Shepp, that there are trains, engines and cars moving in every direction on many tracks at the same time?

A. That is correct, within certain reservations. We must not get the impression that engines run around yards indiscriminately. While there may be engines moving up and down tracks in yards, they are as I said before, protected against each other. For example, if an engine is working on a lead, another engine may be coming down the track, and while you may see the motion of the two engines, they are completely independent of each other; the engine that is coming down the track in the yard would not enter the lead where the other engine is working without proper protection.

Q. You have the rules, both in your Uniform Code and safety rules, and you have the common sense of your employees, that they watch each other's movements?

A. That is correct, yes.

Q. Am I correct in suggesting to you this rule in your rule book implies that they must always be on the lookout in all directions, precisely because there is that movement?

A. That is correct; yard employees must be alert



at all times.

Q. As a matter of fact, Mr. Shepp, the people connected with various movements of trains, which would include the engine crew and yard crew attached to each of those trains, is that right?

A. That is right, yes. The parties that are associated with the particular movement in the yard are all held jointly responsible.

Q. But they are not the only people working in the yard, are they?

A. That is correct, yes.

Q. There are very many other classifications around the yard, is that not right?

A. There are only certain classifications that have business in the yard.

Q. Suppose we have it from you as to the C.P.R. yards. I dealt with that in Mr. Borntrager's evidence yesterday, as to yards generally; now, will you tell us about the C.P.R. yard and what other classifications are allowed?

A. For example, I heard Mr. Borntrager mention that car inspectors are allowed in the yard. That is correct, but the impression I got was that they are employed in the yard indiscriminately, which is not correct. They are employed in a certain area in a yard, usually in receiving and departure





yards, and repair tracks.

Q. They are in those yards?

A. That is correct.

Q. Checking the cars?

A. Inspecting the cars both inward and outward.

Q. And car men are in your yard?

A. Those are the car men that I am speaking of -- car men and car inspectors.

Q. Then there are, I am instructed, car checkers?

A. That is correct, there are car checkers.

Q. And what do they do?

A. They check the cars on the track, and they check the trains as they are prepared; they also card cars that arrive.

Q. When you say they card cars that arrive, do you mean they attach cards ...?

A. They attach the cards after they have been prepared in the yard office to the cars that have arrived on a freight train.

Q. That is what you were talking about the other day when you said these cards indicated the destination of the car?

A. That is correct.

Q. Then you have yard policemen, have you not?

A. Yes we have, yard constables.

Q. They are around your yard?

A. They are, yes.

Q. And you have your general yard office



employees with functions to perform, is that right?

A. That is not correct. Their function does not include the yard itself. The checkers principally are the only ones that enter the yard proper.

Q. What about call boys?

A. A call boy has no occasion other than going to a caboose track; that would be the only occasion for a call boy to go into a yard. He calls crews that are located in a caboose.

Q. Does that mean he has to cross the yard?

A. Yes, he does.

Q. And your yard clerks, do they have occasion to go out of the office into the yard proper?

A. Not generally. The yard clerks usually record the information that is supplied to them by the checkers. Normally a yard clerk who desires any information in connection with a yard would send a checker out and secure it for him.

Q. Would he at times go into the yard - you said not generally?

A. There may be the odd occasion when he would go out in the yard, yes.

Q. I am instructed - you will correct me if I am wrong - that there are various inspectors who from time to time go into your yards -- I refer to government inspectors, not railway



people?

A. They do come around, yes, but usually by pre-arrangement; they tell us they are coming, and we have someone authorized or appointed to meet them and give them the information and take them to the locations which they want to see.

Q. That would be in connection I suppose with fruit, vegetables and stock of grain...?

A. I was thinking of the Board of Transport inspectors. You were talking about fruit: We have perishable inspectors; they have a responsibility so far as perishable traffic is concerned in the yard.

Q. You have now added the Board of Transport inspectors; and there are these government inspectors who inspect cars with loads of perishable goods on them?

A. They are not government inspectors; we have our own inspection staff - the perishable inspection staff. We do not permit government inspectors to come into the yard unless it were by pre-arrangement any more than we would permit anyone else to come in and look at the contents of cars without pre-arrangement.

Q. I am grateful to you for clearing up this question as to the Board of Transport inspectors. You say you have your own department of inspectors



who inspect perishables, is that right?

A. That is right.

Q. Am I correct in suggesting that in addition there are government inspectors who come to your yards occasionally by pre-arrangement?

A. That is correct.

Q. I suppose, Mr. Shepp, you would agree with me that in addition to these people who have a function to perform in your yard, there are trespassers?

A. There are occasionally trespassers, yes.

Q. And if you have some industrial sidings not far from a school - and you have such, have you not?

A. I cannot think of one at the moment. I presume there are some locations where industrial sidings are located <sup>close</sup> to a school, yes; I would agree with that.

Q. Then you have children running in and out of your yard sometimes, do you not?

A. Not generally. I cannot say that we have children running in and out of the yard, because that is something that no yard employee would tolerate if he saw it. We would receive a report of an incident like that almost immediately after it was observed, and we would take the proper steps. There might be occasions when such a condition does arise.





Q. You have known of such cases, have you not?

A. I have known of cases where children have been playing in the outer sections, but not in the main body of our yards.

Q. In view of all these necessary movements of trains, engines and cars, and all these various classifications of people, both your employees and trespassers in the yard, would you explain to me why you objected to the suggestion that very great care is necessary in a yard to avoid collisions and accidents?

A. Because the people who are working in the yards, as I said before, are accustomed to the rhythm of the motion within the yards; because of their being accustomed to it, they know where to walk and what position to take up when they are in the yard, so that they are absolutely safe from being struck by any motion that is going on in the yard.

Q. I suppose you would agree, Mr. Shepp, that accidents occur as a result of people failing to observe some rule, or acting other than as they should act, is that right?

A. I am not quite sure what you mean by accidents. I would appreciate it if you would elaborate on that please.

Q. People get hurt?

A. People get hurt because they are struck by a



moving car?

Q. Yes?

A. Are you speaking, sir, of trespassers or employees?

Q. You can deal with each in turn, if you like, Mr. Shepp. You have had employees who have been hurt by a moving car, have you not?

A. We have, when an employee failed to keep his mind on his job, yes. We have had the odd occasion where there has been an injury.

Q. The point I am trying to make to you, and ask you to comment on, is that most safety rules are required because of the knowledge of everyone that human beings will occasionally fail in their duty or in their observation?

A. That is true. That applies in all walks of life; I can do that on the highway.

Q. You gave us one example of the yard foreman Hudson whose life was saved by the alertness of a helper on the engine, as recently as May 10 of last year?

A. I gave you that example, yes. I gave the example of Hudson stepping back and being struck by his own engine, the one he was working with.

Q. And you also informed us that the fireman saw Hudson step into the path of the diesel from the left side, and shouted to the engineer;



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but the movement could not be stopped until Hudson had been struck by the footboard and dragged a distance of three feet. Is that right? That is in your exhibit.

A. That is right. And I also stated, if I remember correctly, that Hudson's incident could probably have been avoided if the engine follower had been riding in the position where he should have been, that is on the front of the locomotive.

Q. May I take this step by step. First, was Hudson hurt, or was he merely dragged three feet without being hurt?

A. He was hurt to the extent that he was off work for a short period.

Q. Am I right in suggesting that if the helper had not been there to draw the engineer's attention at that time, Mr. Hudson would have had a much more serious accident than he had? That is right, is it not?

A. I could not agree with that, because if the helper had not been there I am quite certain that the engine follower would have been in his position on the front of the engine.

Q. That is your comment on that?

A. That is correct.

Q. You are suggesting that the helper being there, the engine follower relied on him. That is the point you are trying to make?

A. It would appear so, yes, because he rode on



the back of the engine.

Q. I will come back to that point in a moment. But in the circumstances that then existed you did inform the Chairman, in answer to his question, that the engineer from his position could not see because they were going around a left-hand curve?

A. That is correct.

Q. So that in the circumstances which in fact existed on May 10 of last year, if the helper had not been there to alert the engineer, I am asking you whether Mr. Hudson would not have had a much more serious accident than he did have, in those circumstances?

A. In those circumstances, I must agree with you that that is correct: He might have sustained a very serious injury.

Q. In fact, I am sure you saw the statement of the engineer in that situation?

A. I did.

Q. Mr. Harbottle?

A. Yes, Mr. Harbottle.

Q. He expressed the opinion that if it were not for the alertness of the fireman, Mr. Hudson would undoubtedly have been killed, is that not so?

A. That was the impression that Mr. Harbottle put in the statement, that is correct.





Q. You say the engine follower in this case was riding the back of the movement?

A. That is correct.

Q. How do you know that?

A. Because I saw a statement.

Q. You saw a statement saying what?

A. That he was riding on the back of the engine.

Q. Let me read what was said in your evidence-in-chief at page 561:

"Now, the comment I wish to make on that is that I do not wish to disparage the prompt action taken by the fireman in this case because most certainly he avoided, by his vigilance, an accident. However, I do wish to draw attention to the fact that had the ground crew been properly placed the accident might have been avoided.

Q. Why do you say that?

A. Because the investigation did not reveal the position that ground crew -- this was a light engine movement and the engine follower or one of them should have been on the front of the engine where he could have had a proper observation and perhaps shout to Hudson."



A. That is what I said. However, since then I have had an opportunity to get more information from my files.

Q. Since March 8, last Thursday?

A. Yes, that is correct.

Q. So last Thursday your statement was that the investigation did not reveal where the ground crew was?

A. That is right.

Q. But since then ...?

A. I had the impression before that the ground crew were in the cab of the engine, but I was in error. I have now discovered that the ground crew were riding on the back footboard.

Q. Of what?

A. Of the locomotive.

Q. All of them?

A. The only one that I have -- what I presume to be the engine follower.

Q. Why do you presume that, if you have word about only one of them? Do you know whether it was the engine follower or the field man?

A. Well, I must confess that I do not know whether it was the engine follower or the field man; but the other one certainly was not on the front, there is no indication of that.



Q. All you know from your added information is that there was one man riding on the back footboard?

A. That is right.

Q. And you do not know who that man was?

A. Yes, I know who he was, but I am not prepared to state at this time whether he was the field man or the engine follower.

Q. You do not know what the other two members of the ground crew were doing at that time?

A. I certainly know what Hudson was doing.

Q. What about the third man?

A. He was on the engine because they had been instructed by Hudson before to do some work at the east end of the L-yard, and they were proceeding to the west end after they had completed the work.

Q. What was Hudson doing ahead of the engine before he stepped back on to the track?

A. He was watching another movement that was being made by a C.N.R. yard crew.

Q. Was he watching in order to protect his engine?

A. No, he was not. He was standing a considerable distance away from it, and he was watching the C.N.R. movement, for what reason I do not know, and he stepped back as his engine approached.



Q. Would that be the only occasion you know of where that kind of situation has occurred in your yard?

A. That is the only one I can recall here at the moment, that I know of.

Q. Somewhere in your evidence, Mr. Shepp, you stated -- I am paraphrasing it, so you will correct me if I am being unfair to you -- that the morale of the rest of the crew must be hurt when they see the helper in the engine getting paid for doing nothing. Is that a fair summary?

A. I think it is fair, yes.

Q. I think you said they must wonder -- is that what you said?

A. Yes.

Q. What made you make that comment? On what evidence did you base that?

A. Well one reason is because there are times a movement is delayed because a switch is not set in advance of the movement, and it is necessary for the ground crew to wait until the engine follower walks up and sets that switch; there has been no evidence of any assistance ever being lent by the fireman in that direction.

Q. You mean you know of no case where a fireman has thrown a switch?





A. I have known of cases where a fireman has thrown a switch to let himself into a shop track, but I have not know of any cases where the fireman has thrown a switch to assist in the switching movement that was taking place. There may be some, but I am not aware of them; I know of none.

Q. Let me put it to you this way, Mr. Shepp: have you discussed this question of the helper on diesel yard engines with any yard foreman?

A. I have discussed it with men who worked as yard foremen before.

Q. Have they expressed the view that they resent the presence of a helper on the diesel?

A. Well, if I go back to some cases where a situation like that did occur: One was when a fireman refused to set a switch when the engine was going to the shop track, which made it necessary for the yard man to take the engine up there, let him in, and then walk a considerable distance back. That caused quite a bit of discussion.

Q. How long ago was that?

A. That was quite a number of years.

Q. It was not a diesel engine, was it?



A. It was not a diesel engine.

Q. It was a steam engine?

A. Yes, that is correct.

Q. And the fireman was needed anyway, you admit that?

A. Yes, he was needed.

Q. I must ask you whether you have discussed with any yard foreman or any other yard man this question of the diesel helper, and whether you have heard them express any resentment about his presence there?

A. No, I have not discussed it with any yard man working with diesels today.

Q. Your comment therefore is merely a conclusion that you yourself draw?

A. I think I said that must be --

Q. In your opinion they must resent it?

A. I believe I said that, yes.

Q. But you do not know they do?

A. I would not say that I definitely know.

Q. What do you mean by "definitely know"?  
You do not know at all that they resent it, do you?

A. No I do not know; that is right.

Q. Suppose, Mr. Shepp, that yard foremen and other yard men came as witnesses and told this Commission that they wanted the firemen there, what would happen to



your conclusion that they resent his presence?

A. I would not change my conclusion.

Q. You would not change?

A. No I would not.

Q. You informed the Board that in your experience you knew of only one instance that you recall at the moment when you were asked of an engineer suffering a spell or seizure while he was running an engine. That is right, is it not?

A. That is right, yes.

Q. I suppose that would mean in your experience in Calgary and in Vancouver?

A. I would say so, yes.

Q. Have you heard of an engineer by the name of Bloodsworth working in areas where you have been superintendent, who had a stroke while he was on the engine? Does that ring a bell for you?

A. No, I must confess it does not.

Q. Have you heard of an engineer by the name of George Kennedy who had a stroke while he was operating an engine in a yard? Does that ring a bell?

A. No it does not.

Q. Have you heard of an engineer by the name of Archibald Smythe, who dropped dead while he was at an engine? Does that ring a bell?



A. No, I cannot say that I recall it at the moment.

Q. Have you heard about more than one case in your 40 years across the Canadian Pacific System of engineers becoming incapacitated while they are at the controls?

A. I have heard of some, yes. I heard of one or two during my experience, yes.

Q. And do you not think that if that happened with a diesel yard engine, the helper on the engine would be of value in that situation?

A. No, I do not. I think I said in my evidence that I had heard of only one in yard engines; and during this brief discussion I was trying to think of a similar situation during my experience in yard service. I must confess that I cannot recall any other engineer in yard service while he was operating an engine becoming incapacitated.

Q. In connection with this your explanation -- and for the benefit of my friend it appears at page 438 of Volume IV -- would appear to be that the engineer in the case which you did recall had had quite a history of seizures or some type of fits, and that he was none the less working with the approval of management?

A. That is correct.





Q. Does that imply, Mr. Shepp, that if the helper was removed from the diesel engines in yard service and in road service, that it will become necessary for the company to withdraw this kind of approval from any engineer who is incapacitated in some way?

A. That is a matter that will have to be given serious consideration by management, and I am not prepared to say just what such a decision might be.

Q. I am asking you for your personal opinion, Mr. Shepp. If the helper is removed from the diesel engine in yard and road service, do you not think that you would no longer be able to permit an engineer who was in any way incapacitated to operate an engine?

A. No, I do not think so; personally, I do not think that that would be the case.

Q. Why not?

A. I do think that under such circumstances every consideration would have to be given with respect to the location where such a man was employed. I feel that we have locations where we could employ a man under such circumstances, where no danger would result if he did have an attack.

Q. If you have the helper on the engine, and assuming he is a qualified one, a man who



has passed his examination, the risk of having an incapacitated engineer, or an engineer who is somewhat incapacitated, is less, is it not?

A. I believe and I feel that anyone that is relatively close in any location to a yard movement, that the necessary and appropriate steps could be taken in the event of such an emergency.

Q. But it does not take very long, Mr. Shepp, for an accident to occur, does it?

A. It usually results in the failure of someone. The length of time that it takes for an accident in yard service to occur depends entirely on the control of movements.

Q. I am suggesting to you, Mr. Shepp, that if the control of the movement -- and the engineer is surely the most important part of it -- is suddenly lost through a seizure or death of the man at the controls, or through some incapacity of some sort, that having the engine another man qualified to take over, necessarily reduces the risk in that situation. Would you not agree with that?

A. Not necessarily. I would say that it does reduce the risk to a degree, but as I said, yard service movements are generally made



slowly, and under such circumstances if no one were in the cab of the engine it is possible that a heavy coupling could be made with other cars in the yard; or the movement could continue at a slow speed until it came in contact with something, unless someone who observed the movement being made, got up and took whatever steps were necessary.

What I am saying is that in the circumstances that you have described, each circumstance does not inevitably lead to a crash.

Q. Mr. Shepp, I take you to another point that I was unable to follow. You talked at one time about simultaneous signalling by the ground crew direct to the engineer, is that right?

A. That is right.

Q. How can you have simultaneous signalling?

A. Simultaneous signalling is just the copying of a motion that is made with the arm or both arms, or at night time with a lighted lantern. So, if I am charged with the responsibility of repeating a signal I can put my lamp out, that is extended out to the end of my arm, almost simultaneously with the man whose signal I am receiving or repeating.

Q. If I may, I would like to make clear to you, Mr. Shepp, the reason I asked you that



question; the people advising me wanted me to ask a number of questions related to it.

I assume -- and I think your answer now has made it clear to me -- that you did not really mean a simultaneous signal in the literal sense, that the thing started and ended at precisely the same moment. You mean it was almost simultaneous, as you have just said?

A. Well, I would say that if there is any difference it would be insignificant; that is, it would be to a degree so insignificant that it would be hardly noticeable.

Q. Mr. Shepp, am I right in saying that what you tell us is that if all signals are efficient signals they are instantaneous from one to the other?

A. That is correct.

Q. What you are saying then is that the time that would be lost in the giving of an efficient signal by one man and the repeating of that signal by the next man, would involve such a small amount of time as to be almost immeasurable?

A. That is correct.

Q. That is what you meant by simultaneous signals?

A. That is right.

Q. I turn to another matter that has been





troubling me - and I am trying to clear up some of these things before I get into the more important ones. Did you make the statement at one point that a trainman standing on top of a car to give a signal to the engineer was the proper and safe way of giving signals? Is that right?

A. No, I did not say that in all cases. I said that where the crew could not position themselves on the ground, and if it were necessary to exchange signals from the point of the movement to the engineer, that the proper place for the ground crew to position themselves was on top of the cars.

Q. Yes. Mr. Shepp, you said that, did you not, in sort of expressing the view that the trainman going to the top of a car to exchange signals with the engineer was safer than the signals being transmitted to the engineer through the fireman. Would that be a correct statement of your view?

A. That is right; I said that.

Q. What bothers me Mr. Shepp, is this: Do you really think that it is safe to climb on top of a car when it has been snowing?

A. It certainly is. Under those circumstances the necessary precaution by the crew must be taken. It is necessary during every



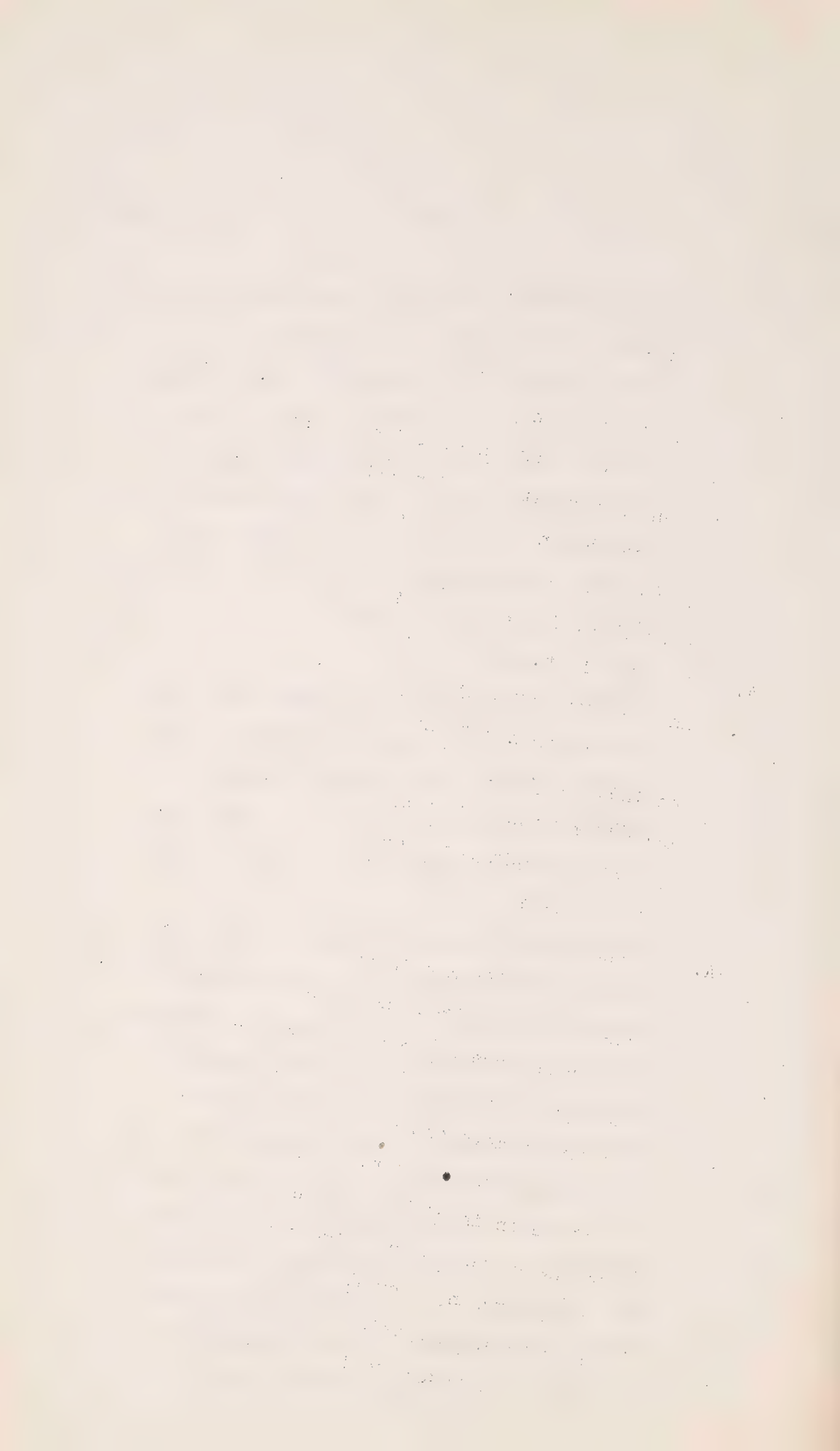
day switching life in the winter months in areas where there is heavy snow.

Q. Now Mr. Shepp, may I take you back a moment to see if you can reconcile this for me. You made it clear that an efficient signal was instantaneous; it was signalling that went from one person to the other in the relay, and that the time was so short as to be hardly measurable, is that right?

A. That is right.

Q. And yet you say that this moment that would be lost by transmitting the signals to the engineer through the fireman makes that operation less safe than a man climbing on top of a car in snow, or if I may add, ice. Why is that?

A. Because that additional relay of signals through the fireman in most cases must be done orally between the fireman and engineer~~s~~. The ground crews are accustomed in their judgment when pushing to <sup>make</sup> a coupling, or pushing a movement of cars with a point car to a certain location, to have their signal acted upon in direct communication with the engineer; and at any time that it is necessary for the ground crew to change the practice and exchange signals through the fireman, they must change their judgment, their



stopping distance. Therefore, it is likely to result in an improper stop being made.

Q. Mr. Shepp, has not your ground crew for many years been in the habit of giving a signal to the fireman at times?

A. Not to my knowledge. I only know of one instance in my experience where such a practice has developed. I do not doubt for one moment that ground crews have given signals to firemen when putting a light engine into a track, or even taking one out of a track, when the fireman was looking; but certainly I do not know of any location where it has been generally accepted that a fireman is expected to take signals without pre-arrangement.

Q. What does that mean, "without pre-arrangement"?

A. Well, what I wanted to say is this: for the ground crews' own convenience, they might, and they could, arrange signals through a fireman where there was a big left-hand curve; although I know of no such location. You asked me whether I knew that signals were sometimes given, and I am just saying that there is always that possibility, but I do not actually know of it.



J. Shepp

- Q If I understand you correctly -- because I intend to pursue this at some length another time and you correct me if I am wrong -- you know of only one location where the practice has developed of giving signals through the fireman, is that what you are saying?
- A That is my experience at the places where I have worked and had under my supervision.
- Q And that would be Calgary?
- A Yes, and Vancouver.
- Q And Vancouver?
- A That is correct.
- Q And in those two places you say you know of only one location where it has been the practice to give signals to the firemen, is that right?
- A That is right.
- Q And that location is where?
- A Vancouver.
- Q Is that the pool elevator No.1?
- A Yes, the pool elevator.
- Q And it means, does it, that you know of no location in the Calgary yards where it has been the practice to give the signal to the firemen?
- A That is right.
- Q Not one?
- A Not one.
- Q I want to establish this clearly. You know of no location where it is in fact the practice to give signals to the fireman, is that what you are saying?
- A I want to understand you correctly about this.





J. Shepp

Q That is right.

A If a practice has developed since I left there, that is a different story, but as far as I am concerned while I was working in Calgary or when Calgary was under my supervision I knew of no location where the company accepted the practice or where it was an accepted practice to give signals on the fireman's side, but if any crew in Calgary did exchange signals on the fireman's side by prearrangement I did not know about it.

BY MR. SINCLAIR:

Q Mr. Shepp, would you address the Commission? Mr. Lewis is asking these questions for their benefit as well as for his own.

A I am sorry, sir. Thank you.

BY MR. LEWIS:

Q Mr. Shepp, I am as anxious as you are to understand your answer. What do you mean by the phrase, "accepted by the company"?

A { I mean that the safe and proper way to conduct switching movements is by an exchange of signals direct with the engineer.

Q Now, Mr. Shepp, I will try to put my question very simply and you do your best to answer it clearly. I am asking you whether in your work in Calgary as a yardman up to superintendent, it is your statement that during all those years you did not know of any location in the Calgary yards at which it was the practice to



J. Shepp

exchange signals through the fireman, is that what you are saying?

A I said I did not know of any location where it was a regular practice to exchange signals through the fireman.

Q All right, that is your statement.

A That is right.

Q At one point when describing the action of the engineer in the cab you informed the Commission that the engineer would keep his head out of the window in spring and summer and in the winter there would be a bay window so he would not have to put his head out, is that right?

A No, I did not put it that way.

Q How did you put it? In what way did you put it?

A I want to make it clear that during a switching movement that is in progress where a number of cars are being kicked and so on and depending on the location of the foreman in that movement the engineer in most cases would have to put his head out so that he could maintain a direct relationship with the signals between the ground crew and himself.

Q Yes, and then you went on to say after you explained that, Mr. Shepp, that the engineer would keep his hand on the brake all the time?

A Well, he would have his hand on the brake if the throttle was shut off. In most cases he would have his hand on the throttle, close it



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off, and put his hand on the brake immediately. It depends on the movement that is taking place at the time. Now, if the movement has been started and there is a momentum and a steady signal has been given, as I have described before, then the engineer receiving the steady signal would shut the throttle off and allow the momentum to continue and he would be looking for a signal and under those circumstances he would have his hand on the brake.

Q Only in those particular circumstances?

A Yes, and I think that is the way I described it.

Q Would you agree with me that he would have his hand on the throttle?

A Not in the way I described, I believe, in my evidence before. If I remember correctly I think we were talking about steady signals and pushing a number of cars to a location. I might be wrong but if my memory serves me correctly I think we were talking about a movement like that when I said the engineer had his hand on the brake.

Q Mr. Shepp, I got the impression from both reading and hearing what was said that in a switching movement the engineer would have his hand on the brake all through that switching movement. You now say that my impression is wrong, is that correct? My impression that in a switching movement the engineer would have his hand on the brake all through the switching movement is not so, is it?



J. Shepp

- A No, and I think what I just said would apply. I think that is what we were talking about and that is why I made that statement.
- Q Well, whatever it was you would agree with me, would you not that his hand is on the throttle until he gets a signal which enables him to shut the throttle off and then he puts his hand on the brake, is that not right?
- A No, during switching movements there are many occasions when he receives a steady signal which would indicate the shutting off of the throttle was required. The next step, of course, is a stop signal or a very slow signal followed by a stop signal. Therefore in answer to your question I cannot say that his hand is always on the throttle, that is not correct. But in a switching movement where a number of cars are being kicked off I could agree that his hand would be on the throttle until he received the stop signal.
- Q Or a steady signal, as you said yourself, when he shuts the throttle off?
- A Yes, but in a kicking movement normally there is a momentum signal and a stop signal so in that case he would have to shut the throttle off and then apply the brake.
- Q And whenever he does that he has to pull his head in to locate the brake?
- A No, that is not right.
- Q You mean he just does it automatically?





J. Shepp

A He does it automatically. With an engineer it is the same as finding a key on a piano -- you do not have to pull your head in to look for it.

Q Well, if I may make this comment, that is a very good analogy. My next question is this. Are the brakes and throttles always in the same place in all the makes of your diesels?

A I have not examined them too closely but I think that they are pretty well standard. Certainly an engineer working with a type of yard switcher becomes accustomed very shortly to the position of his throttle and his brake.

Q Have you watched the engineers to see whether in fact they pull their heads in to **drop** their hands from the throttle to the brake?

It is a drop, is it not? The throttle is above and the brake is below, is that not right?

A I am not quite sure. I think the brake is just a little above the throttle, but I am not sure. It may be below.

Q Pardon.

A It may be below, I am not quite certain.

Q Have you watched to see whether the engineer pulls his head in to make the change of hand from ~~the~~ throttle to the brake, whether it is up or down, did you watch to see that?

A I have watched engineers working very recently and I most certainly say they did not take their heads into the cab to operate the throttle



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or brake.

Q Not at any time?

A No, they maintained a look out.

Q Some questions were asked this morning concerning railway scoops. Would you know how big is the average railway scoop, or how much coal an average railway scoop would hold in pounds?

A No, and I think the same question was asked this morning. I have seen various sizes of scoops that firemen use and I would not estimate just how many pounds they hold because there are different methods of firing. I have seen firemen that take perhaps only half a scoopful of coal which is spread evenly over the shovel and then again I have seen other firemen who take a fully heaped up shovel of coal, so I could not make an exact estimate of the number of pounds.

Q Suppose he took a full shovel of coal, how much would the coal weigh, could you estimate?

A That is again a difficult question. It would depend on the size of the shovel.

Q Can you not estimate how much coal would go into the average shovel?

A No, I cannot say. I would not want to make a statement without having some idea. I might say that it depends on the type of coal that you are using. <sup>lump</sup>~~Plumping~~ coal might not be as heavy as steam coal. I could not make an estimate.



J. Shepp

Q Have you any idea how many scoopfuls a fireman would put into the fire box in a minute?

A That would vary, too, but if he were putting it in continuously I would say he would put in at least ten or 12.

Q Ten or 12 in a minute?

A Yes.

Q And would you be able to tell me how much time in your experience a fireman on a yard engine in a hand-fired steam engine would spend on shovelling coal? I should have said what proportion of his time would he spend shovelling coal?

A That would depend entirely on the movement that was taking place. Now, I recall in my yard experience when I was handling heavy <sup>transfers</sup> ~~transports~~ and I have ridden in the engine and the amount of coal that the firemen put into the fire box at that time would be hard to estimate because there were other duties on the deck which were associated with firing. For example, he would put some coal in the fire box, put on his inspirator or injector, fire the boiler, and then he might get the squirt hose and water down the coal, and some particular firemen about every second they fire they get a broom and sweep the deck; so, sometimes he would be on the deck during the entire trip from Alyth to west Calgary, if we had a very heavy <sup>transfers</sup> ~~transport~~ and other times if we had only one or two cars he might throw



J. Shepp

one or two or maybe half a dozen shovelfuls of coal on and get on his <sup>feet</sup> ~~feet~~, so there are so many variations in yard work that it is hard to tell exactly how many minutes he would be on the deck or how much coal he would put into the firebox.

Q Mr. Shepp, perhaps we could shorten our discussion a little bit if you did not go into as much detail, although I am not going to stop you with the chairman's permission.

You made the statement, I suggest to you, throughout your evidence that the major job of the fireman in yard service in the steam days was to fire the boiler, to do the firing?

A That is right.

Q Now, surely the proportion of time he spends on that would have some relevance, would it not?

A Well, it would have some relevance of course. He would have to spend time on the deck in order to maintain the pressure used.

Q And have you made no estimate as to how much of the fireman's time was spent on a deck in a yard steam engine?

A Oh, yes, I would say very conservatively on a heavy movement, a heavy job during the eight-hour shift, at least half his time would be spent on the deck.

Q On a heavy movement?

A Yes.

THE CHAIRMAN: This phrase "on the deck" means "on his feet"?





J. Shepp

A THE WITNESS: Yes.

MR. LEWIS: Yes, it means standing shovelling coal.

THE CHAIRMAN: Or attending to the water in the boiler or looking at the steam gauge?

HON. MR. McLAURIN: Or raking the fire or taking the clinkers out?

The C.P.R. firemen have never been satisfied with the kind of coal they get?

THE WITNESS: That is correct, sir.

MR. LEWIS: It might make it a little worse but I am informed that the coal they got in the east was a little better than the coal they got in the west.

HON. MR. McLAURIN: The way I heard it, it was no good either in the east or the west.

THE CHAIRMAN: Would the difference in weather conditions have any bearing on this discussion, winter and summer and so forth. Is it harder to keep up steam in winter than in summer?

THE WITNESS: It is a little harder, I think, although not too much. It is a little harder in the winter time, sir.

BY MR. LEWIS:

Q Let me go at it in another way. You said it would take half the time on a heavy movement. What is the maximum of coal you know of in your experience a fireman would put into a yard engine in eight hours?

HON. MR. McLAURIN: You mean put into the fire box?



J. Shepp

MR. LEWIS: Yes. In a shift of eight hours.

THE WITNESS: I would say between six and seven. tons.

BY MR. LEWIS:

Q Six or seven tons on an eight hour shift in yard service?

A The maximum, you said.

Q Yes, the maximum?

A About six or seven tons, I would say.

Q You have known that from your own experience, have you?

A Yes, I have.

Q I am instructed and correct me if I am wrong, by men who have fired in yards that they do not recall ever firing more than about three tons in a shift in yard service. They would be wrong, would they?

A Well, I would say that they are most conservative on heavy jobs.

Q You would say they are very conservative?

A Yes.

Q And what would be the average from your experience? If you can talk about an average in this sort of situation, what would be the average amount of coal they would put into a fire box in an eight hour shift?

A Well, it would be hard for me to arrive at an average because there is a great variance. Now, on some small yard engines where there is



J. Shepp

a very light load handled and considerable distances covered at slow speeds, I would say that they could get by with maybe two and a half tons a shift or maybe two tons. <sup>That</sup> I would be most conservative. Whereas, on other yard assignments, depending on the engine and the volume and weight of traffic that was being handled, I would certainly think and I feel that they would use six tons or possibly seven.

Q How often would that occur, even in your judgment, as to the amount?

A I would say that would occur pretty well on particular assignments every day.

Q Name an assignment, would you please?

A I am thinking of the train job in Calgary at the east end of the yard where I worked.

Q Would you mind particularizing it a little more. Which particular assignment are you speaking about?

A The east end assignment in the Calgary yard.

Q The east end assignment in the Calgary yard?

A Yes. And the other one I spoke of was the transfer assignment between Calgary and west Calgary, the midnight transfer assignment.

Q The midnight transfer assignment between Calgary and west Calgary?

A That is correct.

Q And in each of these cases it is your opinion that the amount put in would be six to seven tons in a shift?



J. Shepp

- A Not in each. I said the east end assignment would put in more than the transfer assignment.
- Q What amount of coal would be put in on the transfer assignment as compared to the east end assignment?
- A I said six to seven on the east end assignment and possibly at least five on the transfer.
- Q And in other places you have observed that it might be as little as one, one and a half or three.
- A That is right, and in some cases it might be three and a half to four tons.
- Q And when you said it would take 50 per cent of the fireman's time on a heavy movement, was that the case where the fireman would put in six or seven tons?
- A That is correct.
- Q That is the time it would take him 50 per cent of his time?
- A Yes, that is correct.
- Q And if he put in only three tons then it would be about one-quarter of his time, would that be right?
- A Yes, he would do it at various intervals during the hour.
- Q And he would do it for a very short time at various intervals?
- A Under those circumstances, yes he would.
- Q Under any circumstances would he spend any great length of time on the deck at one time?





J. Shepp

A Oh yes. The one particular occasion I referred to on <sup>the</sup> transfer assignment he spent his entire time on the deck of the locomotive until the destination was reached and that would be probably about 45 minutes of the hour. It took 45 minutes to go that distance from Alyth to west Calgary.

Q And you say he was on the deck the entire 45 minutes in that case?

A Yes.

Q And did you make that observation on just one occasion or are you saying it was a regular daily assignment with which you are acquainted?

A I said I worked on that assignment and I did not say it occurred every day. I said when the transfer was particularly heavy. There would be times when it was not as heavy and therefore he was not required to shovel as much coal.

Q How far is it from Alyth to west Calgary?

A About three miles.

Q Pardon?

A About three miles.

Q And you say it took three quarters of an hour?

A Yes, it is an up grade movement.

MR. LEWIS: This would be a convenient point at which we could break off, Mr. Chairman, with your permission.

THE CHAIRMAN: Very well, we shall adjourn until tomorrow morning at 10.30.

-- The commission adjourned at 3.20 p.m. until 10.30 a.m., Wednesday, March 13, 1957.



ROYAL COMMISSION ON EMPLOYMENT OF FIREMEN  
ON DIESEL LOCOMOTIVES IN FREIGHT AND YARD  
SERVICE ON THE CANADIAN PACIFIC RAILWAY

8

## PROCEEDINGS

DATE: March 13, 1957

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ROYAL COMMISSION ON EMPLOYMENT OF  
FIREMEN ON DIESEL LOCOMOTIVES IN  
FREIGHT AND YARD SERVICE ON THE  
CANADIAN PACIFIC RAILWAY

Proceedings of public  
hearing held at Ottawa,  
Ontario, Wednesday, March  
13, 1957

PRESENT:

Hon. R.L. Kellock,	Chairman
Hon. C.C. McLaurin,	Member
Hon. Jean Martineau,	Member
Douglas M. Fraser,	Secretary
A.R. Winship	Asst. Secretary

APPEARANCES:

D.W. Mundell, Q.C.	Representing the
C.J.A. Hughes, Q.C.	Commission
I.D. Sinclair,	Representing the
John Pearson,	Canadian Pacific
	Railway Company
David Lewis, Q.C.	Representing the
	Brotherhood of
	Locomotive Firemen
	and Enginemen

-----

Wednesday,  
March 13, 1957.

8TH DAY

MORNING SESSION

--- The Commission opened at 10.30 a.m.



ERRATA

Please make the following  
correction in Volume 5

Page 622, line 3 - "work by the individual employee"  
should read:  
"worked by the individual  
employee".

-----

JOHN SHEPP, Recalled

EXAMINED BY MR. LEWIS:

- Q Mr. Shepp, we were at one point yesterday; we were discussing engineers having seizures while on the job. I wonder whether you heard of such an event having happened early in February in the United States on the Boston and Maine Railroad? Did you hear about that, on a multiple-unit Budd car train?
- A Yes, it seems to me that I read something about an incident like that.
- Q I suppose you read that the helper there stopped a very crowded multiple-unit Budd car train, crowded with passengers, when the engineer was seized and became unconscious?
- A I believe there was something to that effect, although it is road service, I understand.
- Q Pardon me?
- A It was in road service, I believe.
- Q I think you suggested yesterday -- I just want to



clear this up -- did you, that the Board of Transport Commissioners inspectors could not go on your property without pre-arrangement and permission; am I right?

A No, I did not put it that way. If I did, it was not intended. The Board of Transport Commissioners have authority to come on our property, but as a rule they advise us that they are coming and they advise us of their purpose so that we can have the appropriate officers accompany them.

Q But they do have authority to come on your property as they see fit under Section 71 of the Railway Act?

A They do, yes sir; they do have authority.

Q With regard to Exhibit 37, Mr. Shepp, I think you informed the Commission that you spent from 30 minutes to an hour on the engines, and sometimes more?

A That is correct.

Q There is one statement in the transcript of what you said which is not quite clear to me. This is on page 535 of Volume 4, where you said:

"Oh, we would be riding with the engine for between 30 minutes to an hour, and in some cases we were with the crew on the engine for more than one hour, but we would also be observing the operations of the crew within the area from the ground."

What does that last part mean?

A That means that after we got off the engine and



while we were walking around in that area that we would keep the movement of that engine under observation, and if another engine was working in the same area we would also keep the movement of the other engine under observation.

Q When you say "we" you mean Mr. Flett and yourself?

A That is correct.

Q And you were together all the time, were you?

A That is correct.

Q Mr. Shepp, do you have a copy of Exhibit 37 before you?

Q Perhaps you can explain this to the Commission, Mr. Shepp. I find it difficult to follow. If you look at Sheet No. 1 of Exhibit 37, you were apparently at the shop track in time to see the fireman arrive at 6.55, is that right?

A That is right.

Q And then you were also at the shop track in time to see the engine arrive at 7.16; is that right?

A That is right.

Q Then you were also at the shop track in time to see the engine move off at 7.21?

A That is right.

Q And I presume that you then got on the engine and moved off with it in order to make the observations that are referred to in the remainder of that sheet; is that right?

A That is not correct.

Q What happened?





A There were a total of 14 shifts, either 13 or 14, I am not sure, and the observations of the entire 14 were made at that time, from 6.30 in the morning until the last one left the shop track.

Q What do you mean by observations of all of them? You made observations when they started?

A That is correct. Those are the crews that I rode with, they are included in the 12 pages that follow, and the 12 pages cover 3 shifts.

Q You mean you did not get on the engine when it left the shop track, you got on the engine some-time later; is that it?

A That is right.

Q But you still say you were on each engine for at least 30 minutes and up to an hour or more than an hour?

A That is correct.

THE CHAIRMAN: That would be three engines?

MR. LEWIS: It would be twelve of them, presumably.

THE CHAIRMAN: I think he said there were three shifts.

THE WITNESS: That would be within the 24-hour period starting at 6.30 in the morning.

MR. LEWIS: I understood the witness to say that they observed everything that happened on the ground -- he will correct me if I am wrong - beginning at 6.30, and that some time later at various intervals,



I suppose that is right, Mr. Shepp?

THE WITNESS: That is correct.

MR. LEWIS: They got on each of the engines which are referred to in the 12 sheets of Exhibit 37.

BY THE CHAIRMAN:

Q What were you speaking about when you said something about three shifts?

A Well, there are 14 assignments on each shift. That would mean that the first shift starts at 6.30, between 6.30 and 8.00 o'clock. There would be 14 crews start to work between those hours. Then the next 14 shifts would start between 2.30 and 4.00 p.m. and the next 14 shifts would start between 10.30 p.m. and midnight.

THE CHAIRMAN: I understand now.

BY MR. LEWIS:

Q You made those observations at the three times mentioned?

A During the various intervals within the three shifts.

Q Then you rode on an average of how long on any engine, you say from 30 minutes to an hour and sometimes more?

A That is correct, from 30 minutes to an hour and sometimes more. If we were on an engine for 30 minutes and it was doing a job in a certain area we might get off the engine and walk around on the ground and keep that crew under observation.



-2 Q I am instructed, to be fair to you and to put it on the record, that as regards the first sheet where Dixon was the engineman and Betina was the fireman you were on that engine at most for 10 minutes.

A I would question that statement.

Q Was there any time you were on an engine for no more than 10 minutes, Mr. Shepp?

A No, I don't think so. I think we were pretty close to the 30 minutes in each case. That is the lowest. It is possible there might have been a case of 25 minutes.

Q Did you keep time of how long you were on the engines?

A I kept track of the time that we boarded the engine. I didn't take the time that we got off the engine because we might have got off an engine and watched the crew from the ground doing their work because of other movements in that area.

Q Mr. Shepp, I am instructed with regard to Sheet No. 2 -- I should say through the engineer and fireman -- that you were on the engine at most for 15 minutes and that you rode from the station through the tunnel and nothing more; what do you say to that?

A No, I would not say that is correct because we were on that engine when they were switching before they coupled to Train No. 1 and there was a little delay in getting to the tunnel,



so I would say that we were on that engine pretty close to 25 or 30 minutes.

B-1 Q Now then, with regard to Sheet No. 3, Mr. Shepp, do you know Engineman Weeks personally pretty well and Fireman Smith?

A I know Engineman Weeks to see. I don't know him too well personally. I know him to see.

Q You make quite a point in your comment in (c) on Sheet No. 3 that the engineer was working with his head out of the window and watching the signals from the yardman on his side and did not ask the fireman anything?

A That is correct.

Q I am instructed, Mr. Shepp, that all the time that you were on this engine, which again I am instructed was 45 minutes, that Fireman Smith was at the controls all the time and that Engineer Weeks was on the fireman's seat?

A No, that is not correct. I don't think -- surely to goodness --

Q Pardon?

A I say surely I would not make that mistake although it is possible because I don't know Weeks too well, but I certainly was talking to the engineer and if the engineer was sitting in the seat what I have recorded is correct.

Q That the fireman --

A That whoever was sitting in the fireman's seat, sir, was to me the fireman in that movement.





Q Now, with regard to Sheet No. 4, Mr. Shepp --

BY THE CHAIRMAN:

Q May I ask at this point how it would come about if the suggestion is correct that the fireman was operating the locomotive at that time?

A Because engineers and firemen on yard engines change positions occasionally.

BY MR. LEWIS:

Q This is not of very great importance, Mr. Shepp, but I am instructed that the name of the fireman is Cormier instead of Connor, just for the record.

MR. SINCLAIR: How do you spell it?

MR. LEWIS: C-o-r-m-i-e-r.

THE CHAIRMAN: From what source did you get the names of the engineers and firemen on this form, Exhibit 37?

THE WITNESS: They were obtained from the booking-in register.

THE CHAIRMAN: After the booking in had taken place?

THE WITNESS: That is correct. After the checks were made the number of the engine was compared with the number of the engine shown on the booking-in register. It is possible that some of the crews booking in might have made a mistake in the engine number because I don't know all the engineers and firemen by their faces.

BY MR. LEWIS:

Q I suppose he might also have written his name



in such a way that you thought it was Connor?

A It is possible.

Q I am not making much of that, Mr. Chairman.

I am instructed that in that case, Sheet No. 4, that you were on the engine for no more than 10 minutes. What have you to say to that?

A I would say that was entirely incorrect and I can qualify that further by saying that I spent considerable time with Mr. Dixon, the engineer, or Daniel, rather.

THE CHAIRMAN: Dixon is Sheet No. 1.

THE WITNESS: Yes. Daniel is a coach engine. I would say that was entirely incorrect because in the first place when we approached this engine they were at lunch and we spent a few minutes locating the ground crew. I was on the engine and Mr. Flett was locating the ground crew. Then we proceeded to the V. and L.I. interchange because the yard foreman drew to my attention and Mr. Flett's attention a situation which he wanted to explain to his superintendent. There was also an industrial spur there which this crew switched which we observed, and I also had an introduction to the superintendent of that industry and I spent five minutes at least talking to him while on the engine and he came over.

BY MR. LEWIS:

Q You were on the engine?

A I was on the engine. Then we proceeded back and we made a switch on a train that was pulled down and then we proceeded to the shop, and



the statement that I was on that engine only 10 minutes is entirely incorrect.

Q I am also instructed that you and Flett carried on a conversation all through the piece and could not hear what went on between the fireman and the engineer?

A That is not correct either.

Q As to Sheet No. 5, Mr. Shepp, Engineer Drake and Fireman Roberts, I am instructed that in that case you were on the engine no more than about five minutes and they made only two or three moves with a handful of cars. You say that is incorrect too?

A Yes, I would say that is incorrect too because we remained with that crew when they pulled a string of cars from the west on the lead, presumably from the "G" yard.

BY THE CHAIRMAN:

Q "G" or "B"?

A "G" yard, and we remained with the crew until they started to switch a drag that they had, and what I have recorded here in the subsequent paragraphs is entirely incorrect -- entirely correct, I should say, and as regards to the time I would say that during that move we were at least 25 minutes and it is possible that we may have got off that engine a little earlier, maybe 20 minutes, but we did observe that crew switching the balance of their train from the ground.



BY MR. LEWIS:

Q As I understand the situation now, your statement that you were on the engines at least 30 minutes and up to an hour you are now correcting and there would be some cases when it was 25 and some when it was 20?

A It may be. I do not want to be too particular about -- when I said from 30 minutes to an hour it was from memory.

BY HON. MR. McLAURIN:

Q What does "G" yard mean? Do you just use the letter to designate a particular yard?

A A particular yard within the terminal.

Q It is not an abbreviation?

A No, it is an alphabetical description of a certain area within the yard.

Q Is that typical of yards?

A It is typical of all yards.

BY MR. LEWIS:

Q I am going to skip to Sheet 11, Mr. Shepp. This took place, did it not, at the wharf somewhere?

A I beg your pardon?

Q This is loading of barges, is it not, that Sheet 11 refers to?

A Yes, that was loading barges.

BY HON. MR. MARTINEAU:

Q Loading what?

A Barges on the water.





BY MR. LEWIS:

Q How long were you on the engine in that case,  
in the case of Sheet No. 11?

A In that case we were not on the engine too  
long because we were watching the engine working  
the barge, and that particular engine has a  
signal arrangement, a special signal arrange-  
ment for the pulling and spotting of that barge,  
and I must say that the engineer in that  
particular assignment was most efficient and  
we did not spend too much time actually on the  
engine but we certainly were there for 30 or  
40 minutes, right in the area where he was  
working.

Q Mr. Shepp, I have never seen this but according  
to my instructions -- make your comment on  
this if you will, if I may describe what my  
instructions are -- the engineer himself watches  
the ground carefully in order to judge his  
speed because of the delicacy of the operation  
and he regularly depends on his helper to  
watch for the special fixed signals that you  
mention.

A No, I would not say that is the situation  
there. At least, I have never -- the engineer  
can glance or within the range of his vision  
he can judge and estimate his speed by perhaps  
a building or a mark or even if he glances to  
the ground, but his eyes are on the signal  
and there is perfect co-ordination between the



signal and his application of the brakes and the control of his speed.

Q And in your opinion he can both watch and control his speed and make certain of the signal without any assistance from anyone else? Is that right?

A That is right.

THE CHAIRMAN: Do we have on the record a description of the special signal system at that point?

MR. LEWIS: No, I do not think we have.

THE CHAIRMAN: It may not be in your program to give it, but from either you or Mr. Sinclair I think we should have it.

BY MR. LEWIS:

Q Since we are at this point perhaps you could explain it now, Mr. Shepp, if that is all right with you, Mr. Chairman.

A That signal and the signal system was designed because we acquired a ship called the Princess of Vancouver which has four tracks in its hold. The four tracks in that ship accommodate 28 freight cars. In order to push cars on to that ship and pull them off the ship, it is not possible to place the ground crew in a position where there is a direct communication of signals between the point of the movement and the engineer. So we have devised an electrical signal which displays the appropriate indications and



which is operated or can be operated by the yard man on the inside at the stern of the ship and it also can be operated by the yard foreman who is located on the apron of the slip.

Q Is that a platform?

A That is a movable platform. The signal is also connected with a high mast, which displays the same indication which the engineer can see. So, therefore, the entire movement to and off the ship is controlled entirely by the automatic signal. The engineer can also when he --

BY THE CHAIRMAN:

Q In what sense is it automatic?

A It is of the block signal type; it is a manual block signal type at which the connections can be controlled from the two points that I mentioned; for instance, by pulling the switch you can change it from the red to green, green to yellow and yellow to red.

BY MR. LEWIS:

Q Your statement is that the engineer requires no assistance in making these movements by those signal indications which are controlled by the yard people from a switch?

A That is correct.

Q Now, to summarize, if I may, I want to put this question to you instead of going through every sheet. My instructions are in only two cases were you on these engines for more than



half an hour, and in all others for considerably less, down to the five minutes which I have mentioned. You disagree with that?

A I disagree with that, yes.

Q Now, Mr. Shepp, I suppose that the men working in the yard are controlled by the uniform code, Exhibit 27?

BY THE CHAIRMAN:

Q Before you go into that, Mr. Lewis, may I ask this question: When did you make up these sheets, Exhibit 37, or put down in writing the information from which Exhibit 37 is made up?

A I had a little pad with me and immediately after we had been on the engine and made our observations on the ground I made a note of what observations had been made, and the next time we boarded the engine I put the time down that we boarded the engine.

Q And this Exhibit 37 was made up --

A Was made up the following day in my office.

Q From the notes?

A From the notes.

Q And your recollections?

A That is correct.

THE CHAIRMAN: Thank you very much.

BY MR. LEWIS:

Q I suppose you have those notes, have you?

A I do.

Q I am not asking that they be filed now, Mr. Chairman. They could be. If anything turns





on it later, if I call some of these people, it may be necessary to look at them. Perhaps in that case they had better be filed.

BY THE CHAIRMAN:

Q Is it your wish? Will you produce your notes, Mr. Shepp?

A Yes.

MR. SINCLAIR: Give them an exhibit number now, sir.

THE CHAIRMAN: If you like, Exhibit 47.

EXHIBIT No. 47 -- Notes made by  
Mr. Shepp

BY MR. LEWIS:

Q By the way, I wanted to ask a question with regard to these observations. Was this the first time you have made observations of that sort around the Vancouver yard?

A No, it is not. During the course of my responsibility as superintendent I certainly made many observations.

Q Did you keep any notes of those?

A No, I did not; I kept no notes of what I observed, and I made other observations which came within the scope of my responsibility.

Q Now, I was asking you, Mr. Shepp, I suppose the yard people are governed by the uniform code of operating rules?

A They are to the extent that uniform code affects yard operations.



Q What rules would affect them? Can you tell me offhand what they are, or are there too many of them?

A There are quite a number that would affect them. The main line rules, of course, entering main tracks, and so on.

Q How are the yard people designated in the rules; what are they called?

A They are called employees. All employees who have to do with the movement of trains or engines.

Q And if the rule refers to trainmen would that not also include yardmen?

A I would presume that it would include yardmen if they were performing a duty that comes within the scope of the rule as it affects trainmen.

Q As a matter of fact, Mr. Shepp, I noticed in going through the various files that you were good enough to provide for me -- and they all deal with yardmen -- in those files there is no designation of yardmen at all in the printed material.

MR. SINCLAIR: In the what?

MR. LEWIS: On the printed form.

BY MR. LEWIS:

Q For example, the file dealing with the mishap which occurred on February 17, 1956. I think that was in Exhibit 38. I may be wrong in the



number. In your form the word "trainman" is used, is it not?

A In that final report, yes, the word "trainman" is used.

Q And you simply write down the name of the person whom we would have called yardman; right?

A That is correct.

Q The reason I raise this point, Mr. Shepp, is that I would like to spend a little time on it. I am explaining this to follow with my question on your suggestion that riding the top of a car gives the safest way -- let me be fair -- is a safer way than having signals transmitted through the fireman.

THE CHAIRMAN: What was it you called the witness' attention to, Mr. Lewis?

MR. LEWIS: That was in the file, sir, which contains the report of the mishap dated February 17, 1956, which I suggested was one of the items in Exhibit 38.

THE CHAIRMAN: That date does not appear in Exhibit 38.

MR. SINCLAIR: You see, sir, on Exhibit 38 we said there were nineteen train accidents -- the witness said that -- in Vancouver during 1956. In two cases firemen could have taken action in accordance with safe practice. That is on the second page of Exhibit 38; but Mr. Lewis asked for all the files.

THE CHAIRMAN: I see.



MR. SINCLAIR: And we supplied them to him. He asked for all the files. We supplied all of them to him. It may be one of those 35 files we supplied.

THE CHAIRMAN: Perhaps it is not material. I am trying to follow this closely.

MR. LEWIS: Let me explain this, and I am sure the witness and my friend will agree. In most of the files there is a final report of train accidents, that is the heading. On the lefthand side of this form there are printed certain things such as the train numbers, the engine numbers, and then engine-men, firemen, conductor, trainman, trainman, and it is on all of them that I have seen. My friend will agree.

THE CHAIRMAN: "Trainman" appears twice.

MR. LEWIS: "Trainman" appears twice, and there is no reference to yardman. In some of them the word "conductor" is x-ed out and the word "foreman" typed in. In others, if I am permitted to give evidence that I have seen, that is not done either. The word "conductor" is printed and the name of what I presume was the yard foreman is typed in.

THE CHAIRMAN: The witness said with regard to the word "trainman", as it appears on that form, what?

MR. LEWIS: That is where they put the name of the yardman. Is that right, Mr. Shepp?





THE WITNESS: That is correct. It is a form that is prepared by our management to cover train accidents, and to avoid printing two of them, one for yardmen and one for trainmen, the one form is used for both services.

BY HON. MR. McLAURIN:

Q I would like to get clear the terminology. We first heard of the ground crew in yard switching service as being foreman for the yard and engine follower?

A That is correct.

Q I suppose we could use the term accurately or loosely and call them all trainmen or all yardmen?

A That is entirely correct, sir. Trainmen are road men; yardmen are in yard service.

Q But you would not call anybody a conductor unless you had an operation where a caboose was usually added and the conductor is in charge of the train?

A No; in Canada that is correct. In Canada the yard people are known as yard foremen, although in the United States they refer to yard foremen as yard conductors.

Q But in our terminology the conductor comes within the large generic group of trainmen?

A That is correct.

BY MR. LEWIS:

Q Now, with respect to my instructions, as far as your uniform code is concerned, which governs



all your operations, do you know whether there are any rules in that which refer to a yard foreman or a yardman by that name?

A I know of one rule which refers to yard foremen.

Q Would that be Rule No. 2?

A That would be Rule No. 2. I would have to refer to the book.

Q The rule that has to do with the watch?

A That is correct.

Q As a matter of fact, Mr. Shepp, if you look at your rule book you will find that the word "foreman" is mentioned in both rules 2 and 3, and if you look at the book the word "yardman", if I remember correctly, is mentioned in Rule No. 2.

THE CHAIRMAN: As well as trainman?

MR. LEWIS: That is correct, sir, as well as trainman.

BY MR. LEWIS:

Q But aside from these two rules, is there any other rule in the book which you know of which makes reference to the term "yardman" or the term "yard foreman", any other rules except Rules 2 and 3?

A No, I do not believe that I can recall at the moment at any other point in the book where

"yard foreman's" or "yardman's" names are designated.



Q Now, if we assume for the moment, subject to any check that may be made, if we assume for a moment that in no other rule except Rules 2 and 3 do the word "yardman" or the words "yard foreman" occur, would you agree with me that wherever the word "employee" or "employees" is used and wherever the word "trainman" or "trainmen" is used, then the two people "yard foreman" and "yardman" come within these terms if the operation referred to is an operation that is relative to their jobs? Would that be right?



A No, I think that perhaps I should make this quite clear, that yardmen are confined, of course, to yard service and any instructions that relate to the operation of service in the yard are issued to the yardmen in the form of bulletins in their books, and any particular situation that trainmen are confronted with on the road they are also issued in a bulletin which is separate from that of the yardmen; it applies to conductors and trainmen.

Q Does that mean, Mr. Shepp, that the yardmen and the yard foremen are not governed by the uniform book?

A No, it does not, but I want to qualify that by saying that in each individual case where, I should say, an infraction of the rules takes place and a yardman is concerned, then of course the wording of the rule would apply, and if it contained the word "trainman" in those circumstances a yardman's name could well be substituted; it would cover the same intent of the rule.

Q Yes, with that explanation would you please turn to Rule 90 at page 49. I am interested at the moment in the last paragraph, which is very short. I will read it to you. This is the last paragraph of Rule 90 on page 49, and it states:

"Trainmen will not be required to ride on the top of cars unless necessary for the safety of the train."





Would you say that that applies or does not apply to yardmen?

A I would say that does not apply to yardmen, and again I would like to point out that that is exactly what I meant when I said that in each case it must be applied to the service that is being performed. In this case this rule is strictly a trainman's rule on the road, in road service.

Q That is your opinion, Mr. Shepp, is it?

THE CHAIRMAN: I notice, Mr. Lewis, that in the middle paragraph of the rule it says: "unless otherwise provided on freight, mixed and work trains in motion between stations".

MR. LEWIS: Oh yes, I appreciate that, Mr. Chairman. I am going to suggest that at an appropriate time in argument that this third paragraph of Rule 90 refers to yardmen as well, but in any case I will go on with this question of safety.

THE CHAIRMAN: All I want you to have in view is the context.

MR. LEWIS: I appreciate that.

BY MR. LEWIS:

Q Have you ever had occasion, Mr. Shepp, to study the explanations of the rules which are given to rule instructors?

A I am not sure that I understand your question.

Q Well, let me start it off, perhaps, in a better way: Do you know that your company has interpretations and explanations of the rules which



they make available to rule instructors and, perhaps, to others. I have only been instructed that they make them available to rule instructors. Do you know that there is such?

A Yes.

Q Have you ever had occasion to study these?

A I have, on some occasions, yes, to get interpretation of a rule; yes.

Q And would you know whether the explanation with regard to this third paragraph of Rule 90 makes an allowance for the exception, that is, when trainmen are permitted to ride on top of cars only in such cases as to set up retainers and hand brakes. Do you know that?

A I would like to refresh my memory on the interpretation. What page is it, please?

Q It is Rule 90, page 49. But this is a special instruction, and I have not got any page number.

MR. SINCLAIR: I have an official copy of the rules in my hand, and I don't find anything like what Mr. Lewis has read.

THE CHAIRMAN: If Mr. Lewis is examining on a document which exists, we had better have the document.

MR. SINCLAIR: You had better file it. It looks like somebody's note.

MR. LEWIS: What I am examining on is a book one of the people who has been a rule instructor had, and he instructed me about it. I have no objection --



THE CHAIRMAN: Emanating from the railway?

MR. LEWIS: Emanating from the railway.

THE CHAIRMAN: Maybe the witness will be able to identify it?

MR. SINCLAIR: I wonder if it is Canadian National or Canadian Pacific?

MR. LEWIS: No, it is Canadian Pacific. I intended to put this in, Mr. Chairman, through Mr. Doull, who is the person involved, at a later date.

THE CHAIRMAN: All I have in mind, Mr. Lewis,<sup>is</sup> that if there is something in writing it saves a lot of time in the transcript if we get the document without relying on someone's recollection or on your instructions.

MR. LEWIS: Perhaps, if I might make a suggestion, I will leave it here, and possibly during the five-minute break, when it comes --

THE CHAIRMAN: It comes now.

MR. LEWIS: -- we can look at the copy I have.

MR. SINCLAIR: Maybe he could arrange to give me one of those documents.

THE CHAIRMAN: You can discuss that during the break.

--- Recess.



--- Following recess.

JOHN SHEPP, Recalled

MR. LEWIS: Mr. Chairman, the situation with regard to the document is this: I am instructed by a person whom I will present before this Commission -- I had better put his name on the record -- Mr. Alexander Doull, and the notes which I have before me indicate that typed notes were given to Mr. Doull and to others by the Chief Rules Instructor, Mr. Percy Raimes. Mr. Doull and two or three other Saskatchewan instructors who were given these notes at that time had the notes re-typed on smaller sheets. They were originally on longer ones. He instructs me, as he will say on the witness stand, that they were re-typed exactly as they were on the longer sheets. They were then put in a looseleaf binder, after breaking up the rule book, and the rule was placed opposite the notes. He used that in instructing those people whom it was his duty to instruct.

THE CHAIRMAN: You want to ask the witness what he knows about the document?

MR. SINCLAIR: Is my friend going to file the document so that I can see it?

MR. LEWIS: May I come back to that in a moment. I am quite ready to do so, but there is one difficulty which I will explain to the Commission.

BY MR. LEWIS:

Q Do you know anything about these notes I have





just described to you? If you do not, then I cannot ask you any questions about them.

A No, I cannot say I know anything about the notes that were supplied to the rules instructors.

MR. LEWIS: I am quite prepared to file this and intended to do so, the only difficulty is that I am quite certain I will want to use this during the course of the hearing.

THE CHAIRMAN: Then it is not convenient for you to do that. What do you say, Mr. Sinclair, do you want them marked for identification?

MR. SINCLAIR: I think they should not only be marked, but I think my friend should run photo-stats like I have been doing with my exhibits so that copies may be supplied.

THE CHAIRMAN: You may have better facilities.

MR. SINCLAIR: No sir, I have not better facilities than this organization has. This is a made-up book, as my friend has explained it, which he says is an official book of some type.

MR. LEWIS: I am quite prepared to do what my friend asks. I was going to make an alternative suggestion, and that is that I might myself have this book -- what I am saying is not in any sense a snide remark but a very sincere remark -- I have every confidence in my learned friend and I am quite prepared to let him have this book immediately, and then whatever time he may have in the next day or two he could look at it. I make that suggestion as an alternative



to making photostats. He could make whatever notes he wishes to make.

THE CHAIRMAN: What do you prefer, Mr. Sinclair?

MR. SINCLAIR: I would prefer to have photostats so that I can have one for myself.

THE CHAIRMAN: Do you want the document put in now?

MR. SINCLAIR: I would think so.

THE CHAIRMAN: What is it, Mr. Lewis?

MR. LEWIS: I think we had better designate it as a book containing instructions to rules instructors and the Uniform Code of Rules in separate pages, being the property of A.C. Doull.

THE CHAIRMAN: It will be marked and you can have it for the purpose of making photostats.

EXHIBIT No. 48 -- Instructions to  
rules instructors.

MR. LEWIS: I assume I need only have photostated the notes and not the Uniform Code of Rules pages?

THE CHAIRMAN: How many pages are there?

MR. LEWIS: Quite a few.

HON. MR. MARTINEAU: Do the instructions refer to the rules by number?

MR. LEWIS: Yes, by the number in each case. I think my friend would have enough if he had just photostats of the typed instructions. The rules are just interleaved straight through.



THE CHAIRMAN: I think that will do in the meantime.

BY MR. LEWIS:

Q I have had your comments on the last paragraph of Rule 90, Mr. Shepp. We are still dealing with this question of safety of men on cars, and I would like to draw your attention to a paragraph in Rule --

THE CHAIRMAN: Just to go back to this last exhibit. Photostating is not an expensive thing, apparently, so I think it would be better to do the whole thing and then we have a copy of the document and there will be copies for everybody interested.

MR. LEWIS: Right.

BY MR. LEWIS:

Q I would refer you to General Rule M, which is on page 4, at the bottom, and referring to employees it states:

"They must not ride on top or sides of cars or engines passing structures or obstructions at any point at which there is restricted overhead or side clearance and must inform themselves respecting location of such."

The question that I direct to you on that, Mr. Shepp, is this: Would that not indicate that particular care must be taken when riding on the top or side of a car?

A It indicates only at the locations where there



is such restricted clearance or obstruction. Normally the duties of a yardman require that he ride on the tops of cars and it is for that reason that he must keep himself informed on any locations where there is a prohibition from riding on the tops of cars.

Q In your experience, Mr. Shepp, do yardmen frequently ride on the tops of cars to receive signals or to give signals?

A Yes.

Q They do that as a regular thing?

A Yes.

Q Then I wish to refer you to another booklet which I will file as Exhibit No. 49, entitled "Code of Safety Rules and Safe Practices" issued by the Canadian Pacific Railway Company?

A Yes.

Q Do you have a copy of that book?

A I think so.

MR. LEWIS: I have not eight copies of this as is required in filing documents with the Commission. Perhaps my learned friend could supply them.

MR. SINCLAIR: I will be glad to.

EXHIBIT No. 49 -- Code of  
Safety Rules  
and Safe  
Practices





BY MR. LEWIS:

Q I would like to refer you to Rule 1244 on page 11 of this book.

A Yes.

Q That reads:

"Employees should, when standing on top of car, keep safe distance from side and end; keep alert for sudden jolt and face direction of motion."

For the moment I will leave out those last few words "face direction of motion". I suggest to you that this rule again emphasizes the fact that your railway considers riding on top of cars as being a hazardous thing?

A I would disagree with you entirely because that is not what the wording of the rule intends. It says "employees should", which indicates that they are required to, and it says "when standing on top of car, keep safe distance". That is to draw to the attention of the employees that they must keep a safe distance.

Q Just a moment, with your permission, Mr. Chairman. Every time you are asked a question -- we are going to be here a very long time -- would you just answer the question I ask you. If you do not agree with me, just say so. I am suggesting that Rule 1244 in the set of rules to which I have drawn your attention, I suggest to you that that indicates that your company regards standing on



top of cars to be a hazardous thing. Do you agree with that or not?

A No, I do not. I think I should have the right to express myself if I am going to be helpful to the Commission in every way that I can with respect to my experience in these matters.

Q Go ahead, Mr. Shepp, if the Commission wishes to hear you. You just go ahead, but just answer my question first and then you can make any comment you like.

THE CHAIRMAN: He has given you his answer, now he wants to give his explanation.

MR. SINCLAIR: That is what he did before.

MR. LEWIS: That was not my impression.



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BY THE CHAIRMAN:

Q Will you just give your explanation now?

A My explanation was that in the wording of this instruction it says that "employees should when standing", which I regard as a directive that they are expected, and I know from my experience that they are, and it further reads, "on top of car, keep safe distance", and the reason that was put in there was because some employees were found before not standing at a safe distance and not facing the direction of movement and they were thrown off balance when a stop was made. Therefore the wording of the rule explains that thoroughly and draws to the attention of the employees what they should do when they are riding on top of a car.

Q I suppose you could put it this way, that it emphasizes the difference between working on the ground and working on top of the car?

A That is correct, sir. It does.

BY MR. LEWIS:

Q Mr. Shepp, do you remember the icy condition of the sidewalks yesterday morning?

A Yes, I do.

Q And am I right in suggesting to you that you would in the winter have that kind of condition on top of a car?

A There are times during the winter where you would have such a condition.

Q And are you suggesting to me that standing on top



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of a car, the roof of which is in the same icy condition as the sidewalks in Ottawa were yesterday, is not hazardous?

A I would say that it presents a hazard and I would also qualify that and say that employees in yard service have due regard for conditions like that and if it is not safe under such circumstances then proper and appropriate steps are taken.

Q And what are those?

A Those are that in a movement of a certain number of cars that would require an employee to subject himself to such a hazard, why then the movement would be reduced and the movement would be made in such a way that the employees could exchange their signals on the ground and make the movement safely.

Q And you know of no situation where that would not be possible, the exchange of signals on the ground?

A There are some isolated cases where, depending on the numbers of cars that are being handled -- there are some, I understand, in eastern territories, very few but there are some, but that again is a condition that requires the handling of a certain number of cars, but with that number reduced then the ground crew can position themselves properly so that the work can be done safely, although it takes longer.

Q Is that the only situation where you have got a long drag of cars where signals cannot be given to the engineer? Would not curvature have something





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to do with that?

A That is what I am talking about, curvature under such circumstances.

Q It would make that impossible but you say in all those cases if you take a shorter cut of cars then the signals could be given to the engineer?

A What I said was under circumstances of extreme hazard, such as you have just hypothetically given me, then that would be the way the situation would be met by a ground crew.

Q Is it hypothetical, Mr. Shepp? Have you never had the experience of the tops of cars being too slippery to be safe?

A Frankly I have not had a condition like that where you have sheer ice. There are times when there is snow on the top of the cars and a slight rain would cause an icy condition, but under those circumstances there is usually pretty good footing in the impressions that are made in the snow.

Q What you are saying is you have not yourself had the experience of the top of the car being slippery either through ice or made so through rain?

A Oh yes, I have, yes.

Q And would you require the yardman to climb on top of the car in those cases?

A If I thought he was subjecting himself to a hazard or a danger I would not require him under those circumstances. I would reduce the movement so that it could be done safely.

Q If you will look at 1244 again there is another



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point that perhaps you can help me with. The last words in it are that an employee standing on top of a car should "face direction of motion"?

A That is correct.

Q Now, if an employee is on top of a car for the purpose of receiving and transmitting signals, can he face the direction of motion every time?

A Yes, he can.

Q Suppose that the nose of the engine is attached to the cars?

A Yes.

Q And you have been spotting cars, the fifteenth, eighteenth or twentieth cars?

THE CHAIRMAN: I take it the engine is pushing.

BY MR. LEWIS:

Q The engine is pushing the cars?

A Yes.

Q And the engineer was pushing the cars and shunting for the purpose of spotting and facing the cars? Right?

A Yes.

Q From the direction from which he receives the signal?

A Right.

Q Then suppose that a drag of cars now has to be pulled out?

A Yes, still with the nose of the engine to the cars.

Q Then the signals will still be given from the direction of the cars, will they not?



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A Yes, they will be given from the direction of the cars.

Q And the man on top of the first car that is attached to the nose of the engine, will you please tell me how he can face the motion of the train and receive signals and see signals from the men on the cars who are giving them?

A Under such circumstances when a number of cars are being pulled out -- I don't know just exactly what you refer to but if a signal is received to pull out of the track there is no necessity for the yardman remaining on top of the car. He can get off and get on the engine until they get out to where they are going.

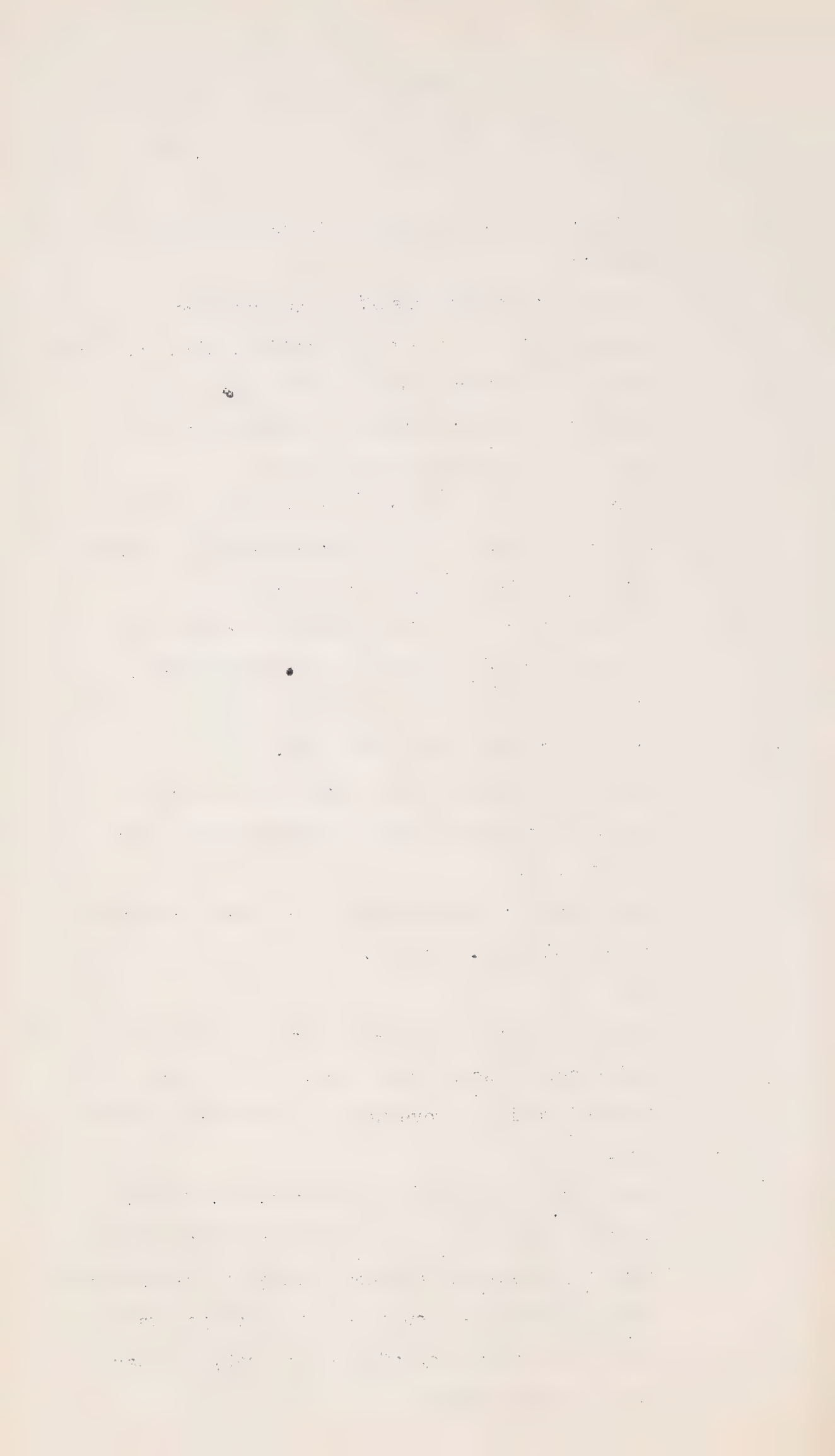
Q Well, you mean that there would be no place where the engineer would not see signals given in that way?

A Under those circumstances the engineer has got a back-up signal to go out.

Q Yes?

A And the yardman would get off and get on the engine and he would ride back and then the engineer would be governed by his signal from the back.

Q Let us go into this a little more, Mr. Shepp. Suppose you had a place the curvature of which made it impossible for the engineer to see signals unless one of the ground men did what you want him to do, got on top of the lead car, the car next to the engine?



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A That is right.

Q So he was on top of the car receiving signals when the engine was pushing the cars in?

A That is right.

Q This curvature is still there, Mr. Shepp. The engineer still cannot see any signals given from the ground. How are the signals going to be transmitted to the engineer through the man on top of the car and that man face the motion of the train? Would you please tell me that?

A I think that in order to give you a comprehensive answer to your question I would have to have a description of the move that you are trying to portray, but I shall try my best to give you a description of how such a movement is made. You must first make it by pushing in, as has already been suggested. Now, you have pushed in with 20 cars and the engineer cannot see the ground crew so naturally the ground crew are on top of the cars spread out. If the curvature is such that the engine follower and the foreman cannot see each other on top of the cars, then the field man takes up a position in the middle and the movement then is controlled by signals to the point at which the point car is to be placed.

Now then, if the entire 20 cars are to remain in that location or if they have to be cut and separated slightly, then of course the engine follower would remain on top of the car, and





under such circumstances with a slow movement back of three or four feet he would have to turn. He would have to face to get the signal, but under such circumstances there is no danger because the movement is so slow that when the engineer applies his brake there is no feeling on top of a car under such circumstances.

Q Well, Mr. Shepp, the example which I gave you was that the cars, one or more of them, were being spotted?

A That is right.

Q Am I wrong in suggesting to you that in spotting a car you have to bring the opening in the car, the door, I suppose --

A Right.

Q -- in exact position to the loading door or shute or whatever it is you may be spotting it with? Right?

A That is right.

Q Is it not right that in that kind of operation the engineer has to go forward and backward frequently and often many times?

A He does, to move perhaps six or eight inches or a foot.

Q That is right?

A Yes.

Q And he has to stop suddenly?

A Yes.

Q And you are suggesting that when he does that, when



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he moves back and forth several times within so short an area as six or eight inches or a foot that a sudden stop has no effect on the top of the car?

A Not a noticeable effect, not to any great degree. I have done that many times in my experience, many, many times, and there has been no noticeable effect. Of course, if I am careless enough to stand right on the edge of the car I probably will go over but if I take up a position such as indicated in the rules then there is absolutely no danger whatever.

Q Fine. I will leave it at that. Now then, Mr. Shepp, you stated in your evidence in chief and again yesterday to me that in your experience, which would be the Calgary and Vancouver yards --

A Yes.

Q -- that you did not know of any place where the giving of signals to the fireman was an established practice or an accepted practice or words to that effect? Those were the words you used yesterday?

A That is right, yes, except one place I mentioned in Vancouver that has come to my attention, although it is not an established practice. My words are correct.

Q Now, when you were doing yard work or superintending in Calgary, do you recall whether you did any work in connection with a business called Gorman's



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Limited?

A No, I don't recall a firm of that name while I was in Calgary.

Q Do you recall a firm, Nitrochemical?

A Yes.

Q And do you recall work being done there?

A Yes, I recall work being done there. I have not spent too much time there, but I have been there, yes.

Q Well, you may know this better than I, Mr. Shepp. I am instructed that as you enter the yard of this firm -- you correct me at any stage where my instructions are wrong --

THE CHAIRMAN: Are Gorman's and Nitrochemical the same or two different places?

MR. LEWIS: Two different places.



MR. SINCLAIR: With respect, Mr. Chairman, my friend has just said to the witness, "You correct me at any time my instructions are wrong"; that is going to be quite a job from what I have seen today.

THE CHAIRMAN: It is the usual form of question. I think the witness can take care of himself.

MR. SINCLAIR: I am quite sure he can.

Mr. LEWIS: My friend shows a sense of humour which, after these days, I appreciate. I have not misled him nor the Commission yet, and I will not.

BY MR. LEWIS:

Q I am instructed that as you enter the yard of the Nitro chemical plant --

A Yes.

Q There is a curve to the right?

A Yes.

Q And then there is a sharp curve to the left?

A Yes.

Q Do you remember that?

A Yes.

Q You enter it with the engine pushing the cars?

A Yes.

Q In fact I am instructed that the curve to the left is pretty nearly a right angle curve, if you permit me that expression?

A Yes.

Q About 70 to 80 per cent of a curve is what was suggested to me?

A I am not too sure of the degree of curvature.





Q But it is a very sharp one; you will agree with that?

A It could well be.

Q And that the cars have to be spotted against spouts?

A That is correct, yes.

Q They must be very carefully spotted?

A Yes.

Q Well, are you suggesting, or does your evidence mean to suggest, Mr. Shepp, that in your experience when you were working in the Calgary yard as superintendent that it would not be established practice to give the signals on the fireman's side in the Nitro chemical operation?

A I have never known it to be an established practice in Calgary, no.

Q At this plant?

A No; I was not aware nor do I know that it was being done, exchange of signals on the fireman's side.

Q Did you ever see it done?

A No; I cannot say that I can get the location that you have described into my mind. I have tried. There may have been an addition. I am not quite certain of this extreme curvature. My recollection was a big right-hand curve going into the yard, and then the tracks were comparatively straight within the yard. There may have been an addition after I left there.

Q You just agreed with me a few minutes ago that



after the right-hand curve there was a very sharp left-hand curve?

A I said, "There could well be".

Q I thought you agreed, Mr. Shepp, that there was a sharp left curve and you even agreed with me that it was nearly a right angle curve, as I put it?

A I think you will find the record says that it could well be. I am trying to think. When you asked the question I tried to get the curve which you spoke of firmly in my mind, and I cannot get that description in my mind, as I recollect the nitrogen plant as it was during my experience.

Q Right.

BY HON. MR. McLAURIN:

Q It is the Alberta Nitrogen Plant?

A Correct, sir.

Q The right name is "The Alberta Nitrogen", another subsidiary of Consolidated Smelters that the C.P.R. own.

BY MR. LEWIS:

Q When you had your experience in Calgary, Mr. Shepp, did you do any work around MacDonald Consolidated Limited which, on my instructions, is in the Manchester district?

A No, I did not. The MacDonald Consolidated were located in the "B" yard when I was in Calgary.

Q All right. I intend to come to the "B" alley. What about the Imperial Oil warehouse? Did you



have any experience with that?

A Imperial Oil warehouse? Can you tell me the location in Calgary of the Imperial Oil warehouse?

Q I am instructed that is also in the area of the Manchester district?

A No, I did not. Manchester was not built up when I left there.

Q Do you remember a business called Wilson Electric in Calgary which your railway services? Was that in your time?

A There was a Wilson Electric. You will have to tell me what area they were located in and when their spur was constructed.

Q Unfortunately, I cannot tell you, Mr. Shepp. I am just asking you do you remember doing or observing any work around Wilson Electric during your experience?

A No, I do not, no, unless I know the location, I do not.

Q Then, undoubtedly you will remember the ~~end~~<sup>N</sup> yard in the Aylith yard?

A I know the ~~end~~<sup>N</sup> yard very well.

Q Are you suggesting that when you worked in Calgary it was not a practice to give the signals to the firemen or through the firemen as you came out on the north leg of the "Y" in the ~~end~~<sup>N</sup> yard?

A I certainly am suggesting, and I certainly will emphasize that I did not because I worked there many times and I was an engine follower, and I



always took up a position on the car next to the engine. Furthermore I would also like to state that I worked in that area, in the industrial area, and when I <sup>pushed</sup> ~~approached~~ the transfer <sup>end</sup> ~~end~~ and all the other crews that I observed, they were properly positioned, and if they had any switching to do when they came in they would <sup>so</sup> arrange their cars, <sup>that</sup> they were next to the engine so that they could put them away on the ground.

Q Mr. Shepp, I make my questions clear to you. I am not asking you about what you did. Will you just answer my question. You said that in your experience, which would be in Calgary as well as in Vancouver you did not know of any location where it was the practice to give signals through the firemen?

A That is absolutely right; I do not know of any location where it is necessary, or where there is a practice -- there certainly was not that practice while I was in Calgary.

Q Mr. Chairman, I do not want to make any comments to this witness. Mr. Shepp, I am not asking you questions about what you think is necessary; I am now asking you questions related to your categorical statement that in your years of service around the Calgary yard you did not know of any case where it was the practice to give signals through the firemen. Now, you are telling me that in your years of experience you do not know in this





part of the <sup>N</sup>~~end~~ yard of a case where signals were given through the firemen. That is your answer, is it?

A My answer is, as I have already given it, that in my experience in Calgary the signals were given as I described them.

Q Now, we come to the "B" alley. You know where and what that is?

A Yes.

Q You describe to me how you come off or the main lead to get into the "B" alley and what, if any, curves there are as you do that?

A Yes, there is a left-hand curve coming off a sort of reverse "S".

Q Two curves are there not?

A Yes.

Q And is there not a crossing there?

A Yes.

Q And at the point of Tenth Avenue West to Sixth Street West?

A That is correct.

Q And it is an unprotected crossing, is it not?

A Yes.

Q And according to the rules an unprotected crossing would have to be protected by flagging?

A That is correct.

Q Would you say that during your years in Calgary it was not the practice to give signals through the firemen as you went on the left curve off



the lead into the "B" alley?

A I would say that, yes.

Q That it was not the practice?

A That is correct.

Q Perhaps you could tell me how the ground crew could position itself to give signals to the engineer in that particular location?

A A stop is made when they push in.

BY THE CHAIRMAN:

Q A which?

A A stop is made at the crossing when they push in. During my experience in Calgary the cars off the east end of the "B" yard were divided before they entered and they went into the "B" yard with only the cars for the eastern section of that area, and in proceeding in --

BY MR. LEWIS:

Q May I interrupt you perhaps to make it clear. I do not want to interrupt your thought. But when you say the east end of the alley what you are implying, am I right, is that there are industries to be served on both sides of that alley?

A That is correct, both sides.

Q Do I understand you correctly when you say that you arranged your train in such a way that you had on it only cars which served the industries on the east end?

A That is right, depending on the number of cars that was being handled.



Q What does that mean?

A Well, that means that the ~~men~~<sup>men</sup> limited the number of cars they handle in that area as much as possible so that they<sup>can</sup>/get in position to exchange signals working in that area because there were several crossings and they have to be flagged; so they stop the movement at the first crossing and flag it. The other man, the foreman would probably walk down to the next crossing where again he would flag. If necessary he would stop the movement, but there was a continuous exchange of signals between the engineer and the man on the point of the movement, and when they passed the second crossing they were on straight track all the way down.

Q Explain to me how you could exchange signals with the engineer, will you please, when you turned the sharp left curve; that is, the left part of the reverse "S" curve as you come off the lead to go into the "B" alley. How could that be done?

A The engine follower takes up a position on the second or third car on the side.

Q On the side of the car?

A Yes, and then when the movement stops he walks along on the ground, and sometimes there is an area there which he can widen out, so that he can walk in the direction where there are cars so that he has a sort of "V" view of the man on the point and the engineer.



Q You are saying to the Commission that that was the practice from about 1919, was it, when you became a yardman?

A Yes.

HON. MR. MacLAURIN: Where is "B" alley?

MR. LEWIS: The point I saw started at the juncture of Tenth Avenue and Sixth Street West.

HON. MR. MacLAURIN: Right near the river?

THE WITNESS: No, "B" Avenue is between Tenth and Eleventh Avenue, starts at Sixth Street West and runs away out past Fourteenth Street West.

BY MR. LEWIS:

Q From 1919 to 1945 you are telling me -- was 1945 the year you left Calgary?

A That is correct.

Q You are telling me that in all those years of your connection with the Calgary yard that it was the practice to give signals only to the engineer?

A That is correct.

Q You are also saying it was the practice throughout those years to divide your train or, rather, assemble your train in such a way that you had on it cars which served one side of the alley only.

Is that what you are saying?

A That was the normal way that the men used to do the work there, yes.

Q Does your last statement mean that there were times when they had cars on it which served both sides of the alley.





A     Yes; if they had a limited number of cars and there was room for them within the immediate area they would push in with the entire string and divide them over the crossing and pull back and set them off at the west end and then proceed to the east end. They did that occasionally, yes.



Q And if they do that, Mr. Shepp, how could the signals through that alley all be given to the engineer?

A The movement into the alley was controlled entirely by positioning the men so that there was a direct exchange of signals to the engineer.

Q And that was, you say, the case all through from 1919 to 1945 in your experience?

A That was so. And also I might again stress the fact that it is not just simply giving the signal from the point that you enter this lead **until** you arrive there; you may make several stops at the crossings. The movement in there was very slow and safe and under the control of signals.

Q To the engineer only?

A To the engineer only.

Q That is what you say?

A Right.

Q And in Vancouver, you say there is only this one exception of a pool elevator?

A That is right.

Q Pool elevator No. 1?

A Yes.

Q And would you mind telling the Commission again whether there is any way in which that can be done by giving signals to the engineer only?

A Yes, it can be done by the ground crew positioning themselves -- by the engine follower remaining



in the proximity of the engine and going up on his car when the movement is stopped.

Q My instructions are, Mr. Shepp, that as this left curve occurs east of the pool elevator, the cars are pushed in by the engine; on the engine side there is the Burrard Inlet -- there is water?

A That is right.

Q How, in that situation, could you have the signals given to the engineer on his right?

A By getting on the first car.

Q You mean climbing on top of it?

A Yes.

Q And you are quite certain that the curve is not sharp enough to prevent the driver, the engineer, seeing the man even on the first car?

A I must define, for the benefit of the Commission, that that is not a normal switching area, and the type of work that is performed there -- the cars that can be pulled out there -- are limited because there is a derail at the end of the spur, and normally what the ground crews do there is take the 18 cars that are unloaded from the elevator, pull them out and push them into the yard. That is the normal function of a ground crew in that area, and they cannot handle any more than 18 cars because there is no room. Occasionally they have a switch to make to put a car back, and for the expedition of the work they are exchanging signals on the fireman's side



when they make the switch, and I think, probably, they are now, when they are making a straight push into a track, giving signals to the fireman to save the engine follower getting on top of a car.

Q I noticed you said the only work the ground crew has, if I understood you correctly, is to pull out the 18 unloaded cars?

A That is correct.

Somebody must have brought 18 loaded cars there at some time?

A They are put in from the other end of the yard and they are run through the elevator by the elevator unloading staff, and they come out at the end we are speaking of as empty cars.

Q Do C.P.R. men have nothing to do with bringing the loaded cars to the elevator and spotting them?

A Yes, they do.

Q Isn't that same problem faced?

A Not at that end of the yard; that is entirely different because they are put in at the other end of the yard and, proportionally, most of the switching that is done with loaded cars is done at the west end of the yard.

Q And is there no curvature that affects the giving of signals at the west end of the yard in that operation?

A No, not to any degree that it cannot be done. They are doing it regularly.





Q And your statement to the Commission is that this particular pool elevator No. 1 in Vancouver is the only place in your experience -- since 1945, would it be?

A Yes, since 1945.

Q -- is the only place in the Vancouver terminals where the giving of signals to a fireman is the practice. Is that what you say?

A To my knowledge that is the only place I know of.

Q Now, Mr. Shepp, am I right in gathering from the evidence which you gave with regard to the steam engine era and since that the only responsibility of the fireman in that steam engine was to fire, and that any other responsibility he had was merely part of the responsibility that all members of a train crew have under the Uniform Code? Am I stating that correctly?

A Yes, I state, and I will again re-affirm, that a fireman's principal duty and responsibility were those of firing the boiler and keeping the water in the boiler. That was always, and still is, I presume, the greatest concern of a fireman -- to keep his boiler supplied with water and, of course, keeping up steam.

THE CHAIRMAN: Your question is limited to firing which, I suppose, is putting the coal into the fire box. The witness says, and has said, that he has the duty of keeping water in the boiler and seeing that steam is up.



MR. LEWIS: That is what I have been led to understand is part of the firing task.

BY MR. LEWIS:

Q Mr. Shepp, would that mean that the fireman on a steam engine and the helper on a diesel engine does not carry any responsibility with regard to lookout?

A The fireman, because he is a member of the crew, shares equally in responsibility in so far as an accident is concerned, whether or not he is in a position to take the necessary and appropriate action. In steam service, all those things are taken into consideration. In my experience in conducting investigations, if the fireman said that he was putting in a fire, or he was on the deck, and he was not in a position to make an observation, then due regard was given to his statement.

Q You would mean that in those cases he would be exonerated from any responsibility?

A In that case -- in many cases -- ~~he~~<sup>I</sup> would, yes.

Q And are you suggesting that the company never, in those cases, told a fireman that he ought to know enough to do his firing between points where a lookout was essential?

A That was the general opinion that some of the officials took, although I cannot say that I have the same opinion.

Q You mean you never told a fireman that he



ought to do his firing between points where a lookout is important. You never took that position yourself?

THE CHAIRMAN: I suppose you mean "between points where a lookout is not important"? You don't want the fireman to be busy when he should be looking.

MR. LEWIS: I mean points at each end, as it were, where lookout is important -- that he should do his firing in the area between those points where lookout is important.

BY MR. LEWIS:

Q You said you never made that kind of request or requirement of firemen yourself? Is that what you are saying?

A No, I say that generally that has not been my thinking on the matter, though I do know that in some cases it was thought by some of the officers that they should do their firing at appropriate intervals, which I could never agree with because I think that the water is liable to go down in the glass at any time.

Q Just any time at all?

A Well, it is quite true it could, particularly if you were handling a heavy train; a lot of water is used to make steam.

MR. LEWIS: Mr. Chairman, before I go further, may I say I have a number of cases I am going to draw to Mr. Shepp's attention. I have not had them photostated because I don't know exactly how much of



this either the Commission or my friend would wish to have photostated to make copies of. In most cases they consist of a letter from an officer of the company, a notice form 104 to the employee of his having been disciplined, and statements of one or more employees -- sometimes an illegible carbon copy, and sometimes typed. So I will do whatever the Commission instructs me, and whatever my friend within reason suggests.

MR. SINCLAIR: Like I did with the 30 or 40 files I have handed to my friend, if he wants to give them to me I can look them over in the same way. I don't know whether these are off those files; maybe they are.

MR. LEWIS: No, they are not. I did not tamper with the files.

MR. SINCLAIR: They were given to you to use.

MR. LEWIS: But not to take apart.

THE CHAIRMAN: You could give them to Mr. Shepp to read --

MR. LEWIS: What we could do, perhaps, is this: We are approaching the luncheon adjournment and I could, perhaps, let my friend see these during the lunch hour if it would not interfere with his lunch too much, so that I can proceed.

MR. SINCLAIR: I need my lunch.

THE CHAIRMAN: Well, you could do that, and we will see what the situation is at two o'clock.

--- The Commission adjourned at 12.30 p.m. until 2.00 p.m.





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AFTERNOON SESSION

John Shepp, Recalled

BY MR. LEWIS:

Q Mr. Shepp, before going on to the point at which we left off at the noon adjournment, there were two points about the standing on cars that I intended to ask you about and forgot. First of all, you have more than one type of railway car? Box car is not your only type?

A That is correct.

Q Would you give us some of the other types, and a very brief description of each?

A There are flat cars, and there are gondola cars; generally, all cars come within that range. And there are passenger cars.

Q I was talking mainly about freight cars. You also have what you call hoppers?

A Hopper cars, yes; they are gondolas.

Q Take the flat car, the one you mentioned first: If you had a load of pipe or a load of poles, or something like that, it would be quite impossible to stand on it, wouldn't it?

A Yes, it would.

Q And on the gondola cars there are some with high sides and some with low sides, is that right?

A That is right.



Q I suppose whether or not you could stand on them would depend on the load being carried?

A That is right, yes.

Q And with respect to your hopper cars, you couldn't stand on them at all, could you?

A You mean the closed hopper, the high hopper?

Q There are two kinds, are there?

A Yes. The high hopper, I don't know whether you could stand on it or not. I have never tried it. I think you can.

Q What about the other type of low hopper? I am sorry, I did not hear the last part of your answer.

A I said I think you can; I never tried it. I think the ladder goes right up to the roof of the hopper car, and I think you can stand on it if necessary.

Q That is stand on the ladder?

A On the ladder on the roof of the car.

Q Am I mistaken, or are there not sort of openings at the top through which you shoot coal or iron ore?

A You mean the open hopper?

Q Yes?

A Yes. I am talking about the closed hopper car, that we have put into service recently.

Q On the open hopper, you could not stand there at all?

A You could if it was a load of coal; you could stand on the load of coal if necessary.



Q You have seen that done, have you?

A Yes, I have.

Q The second point I was going to ask you about is this: Do people fall off the top of cars -- I mean employees -- in the course of their duties?

A There have been cases where yardmen have fallen off the top of cars, and perhaps other employees who have a duty on the top of a car. The only one I can think of at the moment is a perishable inspector, who has a duty on top of a car.

Q Do you know across the system how many fell off the top of cars, say in 1956?

A No, I have not had an opportunity of making a detailed study of the records over the system.

Q Do you happen to know the number who fell off the top of cars in 1955?

A No, I do not.

Q You know, do you not, of a report published by the Board of Transport Commissioners for Canada?

A Yes, I know of the report.

Q I am showing you, Mr. Shepp, the report of the Board of Transport Commissioners for Canada for the year ended December 31, 1955.

MR. LEWIS: Mr. Chairman, would you care to give this document an exhibit number and I will obtain the necessary number of copies.



THE CHAIRMAN: Number 50.

EXHIBIT No. 50 -- Report of Board  
of Transport  
Commissioners for  
Canada for year  
ended December  
31, 1955.

BY MR. LEWIS:

Q Mr. Shepp, I draw to your attention the table on pages 66 and 67 of the report, headed "Statement No. 3 -- Nature of Accidents, Number of Persons Killed and Injured on Railways for year ended December 31, 1955." Now, I draw to your attention the columns dealing with the C.P.R., and to an entry on page 67 -- "Falling off top of car". For the C.P.R. the number given is five, is that right?

A That is right.

MR. SINCLAIR: Five accidents?

MR. LEWIS: Yes.

BY MR. LEWIS:

Q The next entry is "Falling between cars", and the number given for the C.P.R. is three, right?

A That is what the book says, yes.

Q Those five and those three are in the column headed "Injured", is that right?

A Yes.

Q And there is apparently one out of the three who fell between the cars, who was apparently killed; he is in the column headed "Killed".

A That is so recorded in the book, yes.





Q At the adjournment, Mr. Shepp, I said I was going to draw to your attention some discipline cases.

MR. LEWIS: Mr. Chairman, I understand the arrangement between myself and my friend to be -- and he will correct me if I am wrong -- that whatever one may wish to put on the record, whether I in cross-examination or he in re-examination, we will do so without filing these as exhibits.

THE CHAIRMAN: Very good.

BY MR. LEWIS:

Q This is the first one, and in order to identify it I will give not the name of the fireman involved but the C.P.R. file number, which will identify it for our purposes. This is File No. GR 54-148, dated April, 1954. This is a letter from you to a fireman, is it not, Mr. Shepp?

A Yes, that is correct.

Q In which you disciplined the fireman for a violation of rules 512 and 93?

A No, the letter deals with the issue subsequent to his discipline.

Q What was that issue?

A The issue was that he was disciplined because he was a member of the crew; and he was disciplined in a rule infraction which the members of the crew who were in charge of the movement at that time were all involved.

Q Why do you say the letter follows something that happened in the disciplining? It deals



with the same thing as your Form 104, doesn't it? I don't think it matters, but perhaps you did not notice that?

A Yes. The letter says and draws to his attention that his rule certificate had been withdrawn because of the discipline.

Q But that was stated on Form 104?

A Yes.

Q "Your certificate based on Examination A has been cancelled".

A That is correct.

MR. LEWIS: Mr. Chairman, Form 104 is the notification of the discipline which goes to the employee who is disciplined, and sets out the discipline and the cause for it. It is referred to as Form 104.

BY MR. LEWIS:

Q So it was on Form 104?

A That is correct.

Q Without going into the details, and if I may ask you, Mr. Shepp, without intending any offence, to briefly describe what the violation of rule 512 would be, if you can recall it?

A The violation of rule 512 means that the track --

MR. SINCLAIR: Mr. Chairman, this is page 143.

THE CHAIRMAN: Of the red book?

MR. LEWIS: Yes, Exhibit 27.

BY MR. LEWIS:



Q Will you go ahead, Mr. Shepp?

A Rule 512 means that the track that is to be entered is equipped with a track indicator. The indicator is a device which by pressing a button will indicate whether the track that is to be entered is clear or whether it is occupied.

Q And it goes on to say, does it not, that merely because there is this indication, the crew in the engine or on the train or in the yard are not relieved from protecting their train or engine as required by the rule?

A That is correct.

Q That is the first violation you disciplined him for. Now as regards rule 93, what did that involve -- that is page 51? Perhaps I can help you, Mr. Shepp: Generally, is it true that rule 93 also deals with the duties of the engine and train crew regarding signals, certain types of signals and so on?

A If I remember the case correctly, the movement was made against the current of traffic. To put the situation in brief: The crew failed in making the movement without first arranging proper protection, and it resulted in a collision.

Q And I also show you in connection with the same case some carbon copy notes taken apparently on April 13, 1954, of a statement, and answers to questions, of the fireman disciplined?

A That is correct.

Q Do I surmise correctly, Mr. Shepp, that you



took these notes?

A That is correct, I took the statement.

Q And is this by any chance your writing?

A It is.

Q In that case perhaps you will read this question and answer at the bottom of this page.

A I think if you will permit me, I will read the first paragraph on this page first.

Q Certainly, you read anything that is there.

A The first paragraph is in the form of a question, and it reads:

"Do you understand that as a member of the crew that you are held equally responsible with the rest to the strict observation of rules to insure safe operation?

A. Yes, I do."

Q You had better read the middle one too.

A "When you were informed by Trainman Biogioni after your engine had proceeded to the eastward main track from the diesel shop track against a red indication on the switch indicator, why did you fail to draw to the attention that your movement to the eastward main track had been made without proper protection being afforded?

A. After I was informed that a red fusee had been placed opposite signal 1286 I considered that it would





"afford the necessary protection  
for the movement in question."

Q And then your next question -- I presume you  
asked that question, did you?

A That is correct. The question was:

"When your movement against  
the current of traffic was started  
toward the centre crossover from the  
the eastward to the westward main  
track did you realize that the fusee  
which Trainman Biogioni had placed  
opposite signal 1286 was not proper  
protection for a movement of this  
kind?

A. I now realize that in  
my understanding of the application  
of these rules I erred to the extent  
of thinking that such protection was  
adequate."

Q I do not think you need read the rest of it  
unless you want to.

A No, it is not necessary.

Q In this case you held the engine helper  
responsible as part of the crew, you say, for  
failing to give the engineer a warning about  
the signal and about the protection which the  
train had. That is so, isn't it?

A I have stated before several times that all  
members of a crew, whether they be three, four  
five or six, if they are members of the crew



they are held jointly responsible for the movement of their trains.

THE CHAIRMAN: Speaking for myself, I do not understand that particular incident too well. I would like to know a little more about it, and I would like to ask a question on it.

MR. LEWIS: By all means, Mr. Chairman.

BY THE CHAIRMAN:

Q Was there an infraction of rule 512? It begins with the words: "Where switch indicators are provided, the indicator must be observed immediately before a main track switch is opened." Who pushes the signal into operation, which would show a train approaching or not?

A The trainman who proceeds to the switch to turn it is required to determine the condition of the track by pushing the indicator button.



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Hubbard

Q That would be the foreman or the field man?

A In yard service it would be any one of the three ground crew.

Q I see.

A In this particular instance it was a trainman because that was a road movement of engines within the yard.

Q Well, then, he did operate it?

A Yes, he did operate it and it was in the stop position and he so informed both the engineer and the fireman that the indicator was in stop position.

Q That is, that indicated a train approaching?

A It indicated that something was standing on the track.

Q How did he inform the engineer and the fireman, by word of mouth?

A Yes.

Q Then what happened?

A Then they proceeded with that information, that there was something on the track.

Q Well, was that an infraction of the rules?

A That was the first infraction of the rules, although they could under proper protection come out on to the main track.

Q Supposing there had been no further infraction than that, would you hold the fireman responsible for the consequences of that although the engineer had been informed directly and the engineer would be the one who would apply the motive



power, and he would apply the motive power under some signal from the yard crew?

A In the past it has been a practice to hold also the fireman responsible if he was in a position to take some action that might possibly prevent an accident.

Q Well, just in those circumstances what action could the fireman take if the engineer knew and proceeded? What would you expect the fireman to do?

A If the fireman had protested to the engineer and said "I don't think we should go out there," under those circumstances we might absolve the fireman from discipline, although the engineer went against him.

Q Although the engineer himself knew, and the yard man knew, that in going ahead under those circumstances it was a breach of rules?

A That is correct, yes.

Q You say you would hold the fireman equally responsible, and the only way the fireman could discharge that responsibility would be by protesting to the engineer?

A That is correct.

Q Go on from there. What happened?

A Well, what caused the signal to be in stop position at that time was another engine that was standing on the track and the presence of that engine was known to the crew.

Q By reason of the signal?





A By reason of the signal, and also because it was a regular movement. It was an engine that was taken off a passenger train and always came down that way but remained on that track until the passenger train left.

Q You mean by that they should have expected to find that there?

A Yes, they should have expected to find that engine there.

Q Yes?

A And they proceeded back against the current of traffic.

Q That is toward the standing engine?

A Yes, and in the meantime the standing engine had started to move and they collided on a curve.

Q When you say they proceeded against the current of traffic you mean that standing engine?

A No; in that particular instance it was double main track eastward and westward, and they were moving westward on the eastward track. That is what I mean by against the current of traffic.

Q I see. Well, then, what was the infraction of the rules, if any, in addition to the initial infraction of getting on to that track in the face of that stop signal?

A The infraction of the rules was that they depended on a fusee to protect them, which was placed beside the track by the trainman, and which does not afford the protection that is



required under the rule.

Q What is a fusee?

A A fusee is a device which burns brightly red and yellow that is used on the railways as I have described before. A red fusee found beside a track means that the train must come to a stop.

Q Who had put the fusee there in this case?

A The trainman on his way over to get the engine from the shop track.

Q Which trainman, the trainman belonging to this crew?

A Yes.

Q He had put it there when?

A Just a few minutes before when he was on his way to the shop track to get the engine out.

Q To get what engine out?

A The one we are speaking about that he was bringing up the main line.

Q That this fireman was on?

A Yes.

Q You say that that fusee is not adequate protection. Why?

A Because the rule specifies that a red fusee can be extinguished, and the movement then can continue under proper control.

Q But in this case it was not extinguished. It was burning, was it?

A It was burning, and the engine that came down



stopped and extinguished the fusee, if I remember correctly, and then proceeded. It was after they had extinguished the fusee that they met on the curve.

Q Well, the man who had placed the fusee, where was he after he had placed it? Where did he go? He went down toward his own engine?

A Yes, and he was riding on the engine --

Q That the fireman was on?

A Yes.

Q Well, how did the collision take place if the engine which was the obstruction stopped before it got to the fusee?

A Well, the rule provides that it stop before he gets to the fusee, and then extinguishes the fusee and then proceeds.

Q And in this case the two engines met?

A That is correct.

Q What was the further fault of the fireman? You considered him again responsible for the action of the trainman in putting that fusee out which was not a proper warning device in those circumstances?

A No. The trainman put the fusee out there. I say he was not right. It was perfectly all right for him to put the fusee down there but he did not put it in a position where it would afford any protection for the movement that was to be made. After the engine that was standing there had come down, stopped, and



J. Shepp

the fusee was extinguished, and then the engine started to proceed -- he was within his rights. He was proceeding at restricted speed expecting to find something on the track, and if I remember correctly he observed this other movement coming toward him and got his engine stopped; but the other movement was coming at a speed greater than that which permitted the engineer to bring his movement to a stop before colliding.

Q The thing I am not following you in, Mr. Shepp, is: What was the second infraction, if I can put it that way? I don't grasp what the second infraction of the rules was in relation to the fusee?

A The second infraction of the rule was that such a movement should not have been made without proper protection. Now, what should have been done under those circumstances is that the trainman should have preceded the movement on foot and afforded the proper protection by flagging.

Q As the engine moved?

A Yes.

Q And that not being done, the whole crew was held responsible?

A That not being done the whole crew was held responsible, yes.

Q And therefore you considered there really had been two infractions?





A There had been two infractions, yes.

Q I follow it now.

BY MR. LEWIS:

Q Do you remember if the trainman in that case was disciplined as well?

A Yes, I believe he was disciplined. I am almost certain he was, yes.

Q Can you remember whether the rear-end trainmen, the conductor and the other trainmen, were disciplined?

A No, they were not disciplined.

Q In spite of this joint responsibility of the engine and the train crew, the fellows at the back were not disciplined?

A No, because they were not in a position where they were actually -- well, it had not become a train. It was just a yard movement as far as their train was concerned.

BY THE CHAIRMAN:

K-2 Q I have this further question. Take the initial infraction of proceeding against that signal. Supposing the fireman had not seen that the signal was a stop signal. Would you have visited any responsibility for the infraction upon him, merely because he was a member of the crew?

A Merely because he was a member of the crew, he would share jointly the responsibility.

BY MR. LEWIS:

Q Mr. Shepp, would it be that you considered in



that situation, that as a member of the crew the fireman had a responsibility to warn the engineer or to protest against any improper move, and that if he did not do that you would discipline him? That is the situation, is it?

A In short we do everything in our power to avoid an accident.

THE CHAIRMAN: That is not quite an answer to the question. You should answer the question first.

THE WITNESS: I did not get the question.

BY MR. LEWIS:

Q I was trying to summarize what you said, Mr. Shepp, and I will put it again, perhaps not in the same words but in the same thought. What your position is, isn't it, that the fireman as a member of the crew and in his particular position, as helper on a diesel engine, has the responsibility of watching and of protesting to the engineer or warning the engineer if the latter makes any movement which is improper, and that if he doesn't watch or doesn't warn the engineer then you discipline him. Isn't that a correct statement of that position?

A It is correct to a degree.

Q I do not expect it to be unqualified.

A I cannot say that in every instance we expect the fireman to run the diesel engine.

BY THE CHAIRMAN:

Q Was this a diesel engine?



A Yes, it was.

Q Would you like the question read over to you that Mr. Lewis put?

A Yes.

THE REPORTER (Reads):

"I was trying to summarize what you said, Mr. Shepp, and I will put it again, perhaps not in the same words but in the same thought. What your position is, isn't it, that the fireman as a member of the crew and in his particular position, as helper on a diesel engine, has the responsibility of watching and of protesting to the engineer or warning the engineer if the latter makes any movement which is improper, and that if he doesn't watch or doesn't warn the engineer then you discipline him. Isn't that a correct statement of that position?"

BY MR. LEWIS:

Q What is your answer?

A It is correct, if he is in a position to do so. It is correct to that extent.

BY THE CHAIRMAN:

Q I will put it to you this way. The fireman is there?

A Yes.

Q And it is a diesel engine. Your contention is that he is not in fact necessary but because he



is there you say that is part of his duty,  
and the company so requires?

A Yes, that is correct.

Q If that had been a steam engine and a fireman  
had not observed the stop signal because he  
was engaged in firing, putting water into the  
boiler or doing something of the kind, would  
he have participated in the responsibility of  
the crew as a whole or would the fact that he  
did not see because he was carrying out his  
other duties, would that be an answer so far  
as he was concerned?

A If the fireman satisfied the investigating  
officer that he was engaged in an operation of  
his duties where he could not be in a position  
to make any observation, it certainly would  
affect the position in so far as discipline is  
concerned.

Q But this being a diesel engine and he being  
there and having nothing else to do, then it  
was his responsibility to watch as well as the  
others?

A That is correct.

BY MR. LEWIS:

Q Mr. Shepp, may I -- with your permission, Mr.  
Chairman -- take you back to your second last  
answer. You said to the Chairman that if the  
fireman satisfied the investigating officer or  
the company that he was engaged in some of his





other duties and therefore couldn't watch, he would be exonerated, isn't that right?

A I said it would have a bearing on the discipline, and in many cases he would be exonerated.

Q And in some cases the discipline might be less severe than otherwise?

A It might be, yes.

Q And, Mr. Shepp, wouldn't you also want to take into consideration in that kind of situation as to whether the fireman was right in doing his other duties at that particular time?

A All those things would be taken into consideration, yes.

Q As a matter of fact, you would expect the fireman on the steam engine to avoid doing his firing duties in a situation similar to the one in the case we have just discussed?

A That has been the position, yes. I would expect him to be in a position as much as he possibly could where he could be of proper assistance at the necessary time, yes.



Q Then would you expect him to assume his firing duties in order that he might be of assistance at the proper time?

A Oh, I mean I could not agree entirely, and I said so this morning, because the fireman has a principal responsibility and I certainly would not try to issue any instructions that would jeopardize the possibility of a boiler explosion.

Q I show you some letters and a telegram relating to the case T.53-428 dated October 23, 1953. That would be with a diesel too, would it not? There are two letters signed by you?

A That is correct.

Q Do you recall where you took this statement, or whether you took this statement? No, the statement appears to have been taken by W.R. McCracken, Acting Assistant Superintendent.

A That is correct.

Q Do you know anything about this case?

A I would like to review it for a moment. Yes, I remember it; yes.

Q Perhaps in order to clear things up a little, with your permission and if the witness has no objection, I might read part of the statement of the fireman which will give the essence of it. It says:

"I was called for 8.15 K on  
July 10th as fireman on 1/83 engine  
5345 with engineman and



"conductor . Our train was made up about 8.45 K, when conductor came down with the train orders which the engineman read aloud to the conductor. I then read the orders and discussed them with the engineer, noting order number 681, telling of men working between mile 10.1 and 10.5 on the Cascade Subdivision and advising to stop at the red signal and be instructed by instructions of foreman in charge."

I suppose that would be the foreman in charge of the work being done on the track?

A On the track, yes.

Q (Reads):

"Approaching mile 10.1 at about 15 miles per hour engineman suddenly shut off throttle and made heavy brake ~~type~~ reduction with automatic brake valve. After this I saw a red flag between the rails about two car lengths in front of the engine and train came to a stop with the engine just west of the portal of the tunnel at mile 10.1. After we had stopped a sectionman asked me if I had seen a red flag to which I answered yes that we had knocked one down.

Q. Do you consider that the



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engineman had the speed of the train sufficiently controlled to be able to stop for the red signal protecting the working point between mile 10.1 and 10.5?

A. I consider he may have stopped had he put the automatic brake valve in emergency position or if he had had some clear view of the red flag or torpedo's forewarning.

Q. Do you expect to get a clear view of the red flag or any torpedo's forewarning after having received a train order such as order No. 681?

A. I expect there should be torpedoes to give warning of the red flag.

Q. Then **you** are not familiar with the requirements of Rule 42 of the Uniform Code of Operating Rules and do you accept your responsibility for not knowing what to expect and be in a position to warn the engineman if he is not fulfilling the requirements of the rule as was the case when 1/83 knocked down and passed a red flag between the rails 200 yards east of mile 10.1 at about 9.30 K on July 10, 1953?

A. Yes, I accept my responsibility for not being familiar with the requirements of Rule 42 of the Uniform Code of Operating Rules and not being in position to warn the





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engineman of 1/83 on July 10 so that a violation of this rule could have been avoided at about 9.30 K."

The point there, Mr. Shepp, is that you held that fireman responsible for not being in a position to observe and for not warning the engineman about this red flag; is not that right?

A Principally he was held responsible for not knowing the rule, the proper application of Rule 42.

Q But on the other points I mentioned as well.

A The other points, yes.

BY THE CHAIRMAN:

Q What kind of locomotive was that?

A That was a <sup>steel</sup> ~~steel~~ locomotive, oil-burning steam locomotive.

THE CHAIRMAN: How many of a crew?

A Engineer and fireman and head brakeman.

Q All riding in the cab?

A All riding in the cab.

BY MR. LEWIS:

Q Were all three disciplined, do you recall?

A I am almost certain they were, but unless I saw the full file --

Q You could find about this, and the other one as well?

A Oh, yes, I could.

Q Perhaps you would be good enough to do so.

A I am pretty sure the three were disciplined.



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MR. SINCLAIR: I wonder when there are some checks like that if it would be all right to the Commission and to my friend if I just filed the answers rather than bringing the witness back, or something of that nature?

THE CHAIRMAN: I think Mr. Lewis would agree with that.

MR. LEWIS: Certainly, Mr. Chairman.

MR. SINCLAIR: If he is here, we can get it.

MR. LEWIS: Certainly, unless I am instructed that further **cross-examination** or something may be necessary.

MR. SINCLAIR: Your answer is "yes"?

THE CHAIRMAN: No one knows but that it might be conceivable someone up here would want to ask a question.

MR. LEWIS: If I may say so without offence, I have been cross-examining my learned friend's witness to the point where I cannot give him an unqualified answer.

MR. SINCLAIR: My questions will be put a little more clearly.

MR. LEWIS: I do not think that comment was deserved.

THE CHAIRMAN: Next question.

BY MR. LEWIS:

Q I show you some documents in connection with case File No.X-51-146. This is a letter from Mr. C.E.Lister, General Superintendent at Moose Jaw dated October 18, 1951, and this file



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contains a Form 104 relating to the same incident. Now, I realize that probably you could not give me the details of this since you have not seen the file as it was not in your district; is that right?

A Yes.

Q What I wish to do is to get your comment on this statement in this letter by the General Superintendent at Moose Jaw. He says:

"I have reviewed the file in this connection and while I would be agreeable to reducing this to 20 demerit marks, based on this man's record prior to and subsequent to the incident, I could not expect to make any other recommendations."

The original discipline was 25 demerit marks, is that right?

A Yes.

Q (Reads)

"As you will realize, it is the fireman's duty to check closely on all leads which are on his side where converging routes take place, and if he is not in a position to see clearly, as was the case in March, he should immediately advise the engineer."

Do you agree with Mr. Lister, that that is the fireman's duty to check closely on all leads on his side?

A Leads on his side. Is there any reference there to leads?



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Q "Check closely on all leads which are on his side where converging routes take place"?

A Yes. That was a steam engine and I would agree that the fireman has a responsibility as well as other members of the crew.

Q Mr. Shepp, again you can make any comment you like, but all I am interested in is my question. Do you agree with Mr. Lister that it is the fireman's duty to check closely -- if I remember the words -- on all leads on his side where there is a converging route; do you agree with that statement?

A I can only agree with it to the extent that I have stated, that it is also the responsibility of the other members of the ground crew. To that extent I can agree with it, that it is also a responsibility of the fireman.

BY THE CHAIRMAN:

Q Was that a yard movement?

A A yard movement, yes sir.

MR. LEWIS: All the things I have brought out are yard movements as far as I know. All the matters I have been bringing to the witness' attention are in connection with yard movements.

THE CHAIRMAN: Was there not one where they were approaching a tunnel? Was that a yard movement?

MR. SINCLAIR: Some are yard and some are road.

BY MR. LEWIS:

Q That was within your division, was it not?





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A No, that is a road movement on the Cascade Subdivision.

THE CHAIRMAN: What is being referred to will not mean very much on the notes. What is being referred to?

MR. LEWIS: I was asking Mr. Shepp whether this being a movement within the jurisdiction of the terminal where he was superintendent or acting superintendent.

THE CHAIRMAN: Are you referring to X-51-146?

MR. LEWIS: T.53-428.

THE WITNESS: That has reference to one of the subdivisions under my responsibility while I was superintendent of the Vancouver Division.

BY MR. LEWIS:

Q But it was a road accident, not a yard accident?

A Yes.

Q To get back to the steam days more closely; I show you a file C-10372.

THE CHAIRMAN: Unless we know a little bit more, for instance about the last one you were referring to, than has been put on the record, it is pretty hard to assess the relevancy of it. All we know is that it was a yard movement. We know nothing about the **circumstances**.

MR. LEWIS: I appreciate that and that can be gone into. What I was trying to put on the record was a statement as to the duties of a fireman and whether Mr. Shepp agreed with it, whether he agreed



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with the company's conception of what was the duty of a fireman.

THE CHAIRMAN: Except that the circumstances do seem to make a difference.

MR. LEWIS: Yes.

BY THE CHAIRMAN:

Q In connection with X-51-146, at the time how many men were in the cab?

A At what location was that?

MR. LEWIS: The reason I did not ask this witness that is that I assumed he would not know unless he took out the file because it was not within his territory. This is at Moose Jaw.

THE CHAIRMAN: I realize that.

THE WITNESS: It is Regina.

MR. SINCLAIR: I assume that in order for the witness to know more about it the file would have to be taken out. Perhaps if my learned friend would do that in these cases it would help.

THE CHAIRMAN: I quite appreciate that. What I mean is that if you have a general statement that something was the duty of the fireman, it may be difficult later on when we are a long piece from this point to appreciate the relevancy or weight of the generality.

MR. LEWIS: I appreciate that.

THE CHAIRMAN: However you take your own course.

MR. LEWIS: May I just explain. I took this course because I had no alternative. I had not



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enough information without going to the people involved. If the Commission is interested, as I have no doubt it is, perhaps my learned friend could pull the files out in Regina with respect to these few cases and the story can be completed.

THE CHAIRMAN: Do not misunderstand me. I am not asking for any more detail than you gentlemen think is necessary. I am merely mentioning that I may find myself unable to appreciate this situation, the way I have some others. Perhaps I have had to go into a little more detail. However, you go ahead.

MR. LEWIS: Perhaps if it is left with me I will discuss with my friend what can be done and perhaps a summary of the case or something could be provided to give a background. We will discuss that.

BY MR. LEWIS:

Q In relation to C-10372. This is a Regina case dated August 2, 1945. The fireman in this case was disciplined to the extent of 30 demerit marks, according to the Form 104. Do you recall anything about that accident at all?

A No, I do not. I know it happened in Regina in 1945.

Q Would you see if this would not help you to remember? I am told that this involved a collision between a street car and one of your engines, or an engine leading a train in a yard movement in Regina.

A Yes.

THE CHAIRMAN: A diesel?



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MR. LEWIS: No, steam, sir.

THE WITNESS: Does it indicate that someone was in violation of a proper application of the rules?

MR. LEWIS: The form 104 reads:

"When aware of street car approaching railway crossing assumed same would stop before crossing railway and failed to warn engineer in time to stop engine and avoid mishap and damage to street car, engine 3454, Regina, Muly 22, 1945"

A That would indicate to me there must be an interlocking device that would protect the street car from crossing the railway track or the railway from crossing the street car tracks. There is a general interlocking rule which the ground crew must observe. Apparently it was overlooked by the ground crew and by the engine crew and the engineer and <sup>the</sup> fireman was the only one in position to avoid or give warning to avoid striking the street car.

Q Yes, Mr. Shepp, would you watch me while I read into the record this letter which is from J.J. Raby, D.M.M; I assume that is Divisional Master Mechanic?

A Yes.

Q It reads:

"The Winnipeg street crossing is protected by an interlocking plant and the street car had approached inside of this protection before yard engine had crossed fouling point,





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therefore street car conductor had a clear board and proceeded under the protection. The switchman did not do a proper job of flagging as, had he done so, this would have prevented mishap.

Had fireman warned engineer that street car was approaching, and not waited until the last minute to sound warning, he could also have prevented accident.

As far as presuming a car will stop is concerned, this is not sufficient, as this is the cause of accidents and the men should be certain street cars are stopping before allowing engine to continue to proceed. The engineer in this case was completely in the dark as far as knowing a street car was approaching and the fireman had a clear view at all times and it is my contention that

he shares the responsibility for the mishap." I am right in assuming in that case that the street car was approaching from the left of the engineer who would not see it?

A Yes.

Q There again this fireman on a steam engine, where you say his major responsibility is firing, was disciplined fairly severely. The number of demerit marks makes it a severe discipline, is that not right?

A That is correct.



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Q As a matter of fact, if you get a total of 60 demerit marks without interruption then you may be subject to dismissal; is that not right?

A That is right, yes.

Q In this case he received 30 demerit marks which is half the road to dismissal; is that not right?

A Yes, and I would assume without seeing the statement that he must have admitted in his statement that he was in position, that he was sitting there, and what he saw and that he could have prevented it if he had acted earlier.

Q And because he did not do that, because he did not either keep a clear look out or warn the engineer in time you held him responsible to the tune of 30 demerit marks; is that right?

A That is right. If he was in position to do something to avoid an accident and failed to do so, he was responsible and disciplined.

THE CHAIRMAN: Was that a yard movement?

MR. LEWIS: Yes, so I am instructed; it was within the Regina yard and there is a crossing with a street car track at Winnipeg Street.

THE CHAIRMAN: Do we know anything about where the yard crew were?

MR. LEWIS: No, I do not, not from the information I was given. This sounds a little apologetic, but these files go back many years and they have gone through the hands of several local chairmen and what has landed with me is not adequate.



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THE CHAIRMAN: Quite so, but they are only of value in so far as they bear on any questions we have to answer; that is all.

MR. LEWIS: My submission on that and my reason for bringing these forward is that there is. I am not making an argument, I am just stating my position that there is a general proposition before this commission that while a fireman or helper has certain responsibilities under the operating rules as a member of the crew, those responsibilities are merely secondary as far as a steam engine is concerned, that there he has the responsibility of firing the engine, in all aspects of firing.

What I am seeking to put on the record, and with my friend's help perhaps fill out the skeleton that I am presenting is the fact that these are, as I shall show in evidence later, merely a few representative cases. There are very many of them, as the evidence will show. I am simply trying to show that all through the years the fireman has had a look out responsibility, whether it was on a hand-fired engine, on a stoker engine or an oil-fired engine, and in my respectful submission, now on a diesel engine.

Furthermore, not only did he have a duty, but his duty was valuable and the function which he performed was valuable. That is the reason for bringing these things to the Commission's attention.

THE CHAIRMAN: Personally, I quite appreciate that. All I am saying is that unless one



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has the full story of any given incident it is pretty hard to assess the value of that incident from the point of view that you are putting it forward.

MR. LEWIS: I appreciate that. I hope my learned friend will co-operate, as he has done, in getting the remainder of the story from the only source where it is available to me.

MR. SINCLAIR: I would like to point out that in the letter of Mr. Raby's which was read the first person mentioned in the letter was the yardman. As I recall it, he was not in the proper position and he was responsible. I think that was mentioned in that letter.

THE CHAIRMAN: He did not do a proper job of flagging. Does that mean flagging to the street car or flagging to his own engine?

MR. SINCLAIR: I do not know how the interlocking plant is set up. I would presume that if the street car was in the circuit that would mean he was going against the street car, against some kind of indication that was restricted.

THE CHAIRMAN: I am speaking about the flagging by the yardman, where he fell down in signalling; was that signalling to his own engine or signalling to the street car?

MR. SINCLAIR: It was keeping the movement under control.

MR. LEWIS: According to that letter apparently the street car had a clear indication.





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HON. MR. McLAURIN: Had the right of way.

MR. LEWIS: Had an indication that gave it the right to proceed.

MR. SINCLAIR: I will do what I can to get out some of these files, but some of them go back quite a few years. I do not know where they are. They are all over the country. But I do wish to say now that I think my position would be that I will get them out and do, as my friend says, what I can to fill in the skeleton that he has presented. But when that is filled in I respectfully submit that it does not make it a representative man because these are individual cases and, as everyone knows, they are based on individual facts.

THE CHAIRMAN: That is another consideration. All I am trying to say is that when our attention is directed to any particular incident to support Mr. Lewis' proposition or your proposition, we should have enough information so that we can try to reach a right conclusion, not a wrong conclusion.

MR. SINCLAIR: I will do the best I can to get some more facts.

MR. LEWIS: I have only two more of these. I do not know whether you want me to go on with them.

THE CHAIRMAN: Oh, yes.

BY MR. LEWIS:

Q This is C-10582, also from Regina, dated January 30, 1946, in which the fireman, according to the Form 104, was disciplined to the extent of



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20 demerit marks, which is also a serious discipline.

A Yes.

THE CHAIRMAN: Is that steam?

MR. LEWIS: Steam.

BY MR. LEWIS:

Q I am right, am I not? There were no diesels around Regina as early as January, 1946.

THE CHAIRMAN: That is Nokomis.

Q Where is Nokomis?

A It is about 70 or 80 miles west.

Q But it is in that subdivision?

A Yes.

Q Am I right in thinking that there were no diesels at that time in that area?

A Not likely at that time.

THE CHAIRMAN: Was that a yard or road movement?

BY MR. LEWIS:

Q This is a road movement, I think?

A Yes.

Q It is a road incident. I wanted to put on record part of the letter by the General Superintendent, dated March 5, 1946. Would that be Mr. Taylor?

A That is correct, H. Taylor.

Q General Superintendent, presumably at Moose Jaw at that time?

A Yes.

Q I will ask you to comment on what Mr. Taylor says, and I quote:



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"In his statement he says he did not see the north mile board or the north passing track switch, nor did he feel the engine passing over the switch as he may have been putting in a fire at the time. Surely he might reasonably have been expected to be on the look out and to be particularly observant for anything which would indicate the location of the train knowing that they not only had a station limit to pass through but an interlocking.

He admits his responsibility in connection with violation of Rules 93A and 661 and it was not until passing the station that he realized where they were and shouted to the engineer.

While I appreciate what you say with respect to weather conditions, etc, we must expect every member of the train and engine crews to be especially alert under such conditions in order that their train may be fully protected.

For this reason I regret being unable to accede to your request."

Do you agree with Mr. Taylor that it was the fireman's duty to be on the look out even though the fireman claimed that he had been putting in a fire at the time, to be on look out because they were approaching a station and an interlocking plant, and not having been on look out



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he was guilty of a violation of the rules.

Do you agree with that?

A I agree jointly that he has responsibility, but I would like to have an opportunity of going through the whole file to see just what the special circumstances were. I notice there is reference to two rules, the interlocking rule and Rule 93A

Q Rule 661 is the interlocking rule, is it?

MR. SINCLAIR: To avoid confusion, I think if you look at the dates you will realize that that is the previous rule book and not the rule book we have today and which is on file. That is the old general train interlocking rule book, and the numbers will be changed. Even Rule 93A, which I recall is the same, at least in part, would have a different number as compared book to book, whatever it happens to be. So that you have to be rather careful in considering the rule that is involved.

MR. LEWIS: I do not know that the precise provisions of the rule are necessary.

THE CHAIRMAN: The witness said he could not pass an opinion without perusing the file.

MR. LEWIS: I did not hear that.

BY MR. LEWIS:

Q Then finally, do you know that there is a Railway Board of Adjustment which goes into complaints made by parties to collective agreements?





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A Yes sir.

Q One against the other?

A Yes.

THE CHAIRMAN: What kind of board is that?

MR. LEWIS: If I understand correctly, it is what in other industries would be called an arbitration board. In fact it is a joint board which renders final decisions with regard to certain grievances.

MR. SINCLAIR: For all railways.

MR. LEWIS: Yes, for all railways.

BY MR. LEWIS:

Q I have in my hand and I show you, Mr. Shepp, a document which purports to be one filed with and signed by -- it is headed "Case No.538" and is dated October 10, 1944. This particular document contains the signature of the Chairman and the Vice-Chairman. That would be the Chairman of the Canadian Railway Board of Adjustment No.1?

A That is right.

MR. LEWIS: This gives the entire story and I shall file it so that the Commission will have it.

EXHIBIT No.51: Case No.538, Canadian Railway Board of Adjustment No.1

MR. LEWIS: I might indicate that this consists of a joint statement of facts which set out the employees' contention and the company's contention as jointly agreed upon between the Brotherhood of Locomotive Firemen and Enginemen and the Canadian Pacific Railway Company, the two parties involved in



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this case.

THE CHAIRMAN: Perhaps before you proceed we could have a break.

--- Recess

MR. LEWIS: Mr. Chairman, I just wanted to put on the record if I may part of this document. As I was saying when we adjourned for the recess, it is practice for the parties to present a joint statement of facts which are contained in this binder which is being filed as an exhibit, and there is also the decision of the board of adjustment which recites the joint statement of facts. If I may I should like to put on the record the employees' contention and the company's contention in this joint statement of facts, and then ask Mr. Shepp a question regarding it.

The employees' contention reads:

"The movement which was being made by the switch engine -- "

BY MR. LEWIS:

Q That would indicate a yard movement?

A That is correct.

MR. LEWIS (Reads)

"-- namely, taking a caboose off a train and placing it in the caboose track, is of everyday occurrence and all members of the crew knew that it was not necessary to foul the main track in order to make the move. The fireman just previously had mentioned to the engineer that he heard a train coming from Fairville.



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The rate of speed which the yard engine was moving indicated to the fireman that the engineer would just move far enough for the old south lead switch to be thrown for which movement it is not necessary to foul the mainline and at a speed of about four miles per hour a stop could be made almost instantaneously if the brake were applied, therefore the fireman had every reason to feel that there was no danger. When the fireman saw that the engine was going foul, about five feet away he shouted to the engineer not to go back too far but the engineer did not stop until the transfer was side-swiped.

The employees contend that the discipline to the fireman is improperly placed for the following reasons; the signals were all being given on the engineer's side; it was not necessary to foul the mainline in making the movement. The engineer had no right to foul the mainline with the switch set against him; the fireman had previously told the engineer he heard a train coming; the movement was being made so slowly that the fireman had every reason to feel that the engineer would not foul the mainline; the fireman did warn him just before he went foul thereby indicating that he was alert and on the job and the engineer never even asked the fireman to warn him when he was coming foul



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of the mainline evidently because he did not intend to go foul. The employees further contend that to use the mis-judgment of other employees in such an instance as this to the discredit of another employee is unfair and not in keeping with general practice."

Then the company's contention reads as follows:

"Engine 3705 was required to take van off train standing on new south lead and place it on old south lead, an adjoining track. There is sufficient clearance on new south lead between the old south lead switch and the fouling point on the eastbound mainline for engine and van. In making the movement the yardman riding on van failed to give stop signal as soon as van cleared the switch, as is the usual practice, with the result that the engineer allowed the engine to move foul of the eastbound mainline, striking side of the transfer movement.

The primary responsibility for this affair lies with the yardman who failed to give signal at the proper time, and with the engineer who was not paying proper attention to his movement and who, therefore, allowed the engine to foul the eastbound main track without knowing it was clear. However, the fireman failed to advise the engineer of the fact that movement was being made on eastbound mainline, which information should have been conveyed to the engineer





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promptly, as it necessitated his using extra precaution against allowing engine to pass fouling point. In the fireman's statement he acknowledges that he was aware of the transfer movement being made on east-bound mainline, but he failed to advise the engineer as he assumed the latter would stop clear of the fouling point. He did not actually give any warning to the engineer until the engine was within five feet of the transfer at which time it was too late to get stopped. It is essential that firemen should at all times keep engineers informed of conditions affecting the movement of the engine and for his failure to do so in this instance, fireman                      was properly disciplined to the extent of five demerit marks."

I do not know whether I gave the date, but this happened on October 10, 1944.

BY MR. LEWIS:

Q     What comment have you to make on the last sentence in the company's contention, Mr. Shepp, that it is essential that firemen should at all times keep engineers informed of conditions affecting the movement of the engine?

A     I would say that in his general responsibility that would be a requirement.

Q     Mr. Shepp, this does not speak about joint responsibility. Would you please answer the question as it is phrased first, and then you



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can make your comment.

It says "it is essential that firemen should at all times keep engineers informed of conditions affecting the movement of the engine and for his failure to do so in this instance --"

Do you agree or disagree with that statement?

You can qualify it after you have answered that question.

A Well, I do not wish to be contradictory, but I cannot agree that if the fireman has a firing duty that he could be at all times, because he is not in a position to do so. Therefore in this particular case we must judge the case on its merits and my remarks can only be made on the statement which you have read which indicates the fireman was sitting on his seat and was in position and in that direction, so under those circumstances I would say "yes" to your question.



J. Shepp

Q Now, Mr. Shepp, a few details in your evidence and I will be through. At one point you informed the Commission that the bunkhouses which you provide for the engine crews had cooking facilities. That is not true of all bunkhouses, is it?

A In my evidence I do not believe that I made any reference to such things, although I am familiar with bunkhousing facilities. In most cases from my experience there are facilities for cooking if there are no suitable eating places provided by the company where the crews can obtain good food.

Q Good food at a price?

A At a reasonable price.

Q Just taking British Columbia, there are no cooking facilities in the bunkhouse at North Bend?

A No, because we have a hotel under lease there called the Fraser Canyon Hotel, under which we have a contract which stipulates the prices that can be charged for meals to our employees.

Q Or at Kamloops?

A I believe  
At Kamloops/there are some eating facilities, although I am not sure. However, Kamloops is a city and there are facilities at Kamloops, there are eating places at Kamloops.

Q And at Field? There are no cooking facilities

A in the bunkhouse there, I am instructed.

A I am not sure about Field. I have not made



any observations for some time.

Q And at Sicamous?

A I am not sure about Sicamous.

Q And Kelowna?

A No, nor that territory.

Q And Swift Current?

A I am not familiar with Swift Current.

Q Broadview?

A Nor Broadview.

Q At one point in your evidence you said something to the effect that in the larger yards only the yard crews do the switching, although in the smaller yards the road crews may also do switching; is that a fair summary of your evidence?

A That is fair, yes.

Q Would you qualify the first part of it, about even the larger yards, and admit that a road crew coming in or leaving the yard would do some switching in connection with their trains, would they not?

A In connection with their own train they would double over, so in that respect it is switching. They would double over when they arrived or double over if they had more cars than the track would contain, yes.

Q That would be a pretty regular occurrence even in the big yards, would it not?

A It would be, yes, it would be regular. It would





LA-3

J. Shepp

happen, however; not necessarily to the same crew. But there are quite a number of train movements in a large yard and it is possible one crew in a day might make a switching.

BY THE CHAIRMAN:

Q What does double over mean?

A That means if the track that their train is made up on contains only 60 cars and they are taking 20 more or taking 80 cars on their train, they would have to pick up 20 cars off the adjacent track and double to the 60 on the other track. That would give them their 80 cars.

Q What kind of crew would be in charge of that movement?

A There would be a conductor, two trainmen, an engineer and a fireman.

BY MR. LEWIS:

Q That would be a road crew?

A A road crew.

Q The same thing would happen if they came in with a train of 80 cars?

A Yes, they would.

Q They would have to double ~~up~~ <sup>over</sup>?

A They would double over some cars on the train if the track they entered on was not sufficient in length to accommodate their entire train.

Q To that extent you would have switching by road crews in every yard?

A Yes, but when I said in my evidence switching, I referred of course to the normal spotting of



J. Shepp

cars, breaking up of trains and so on.

Q I appreciate that. At a good many of the small yards there might not be any yard crew at all?

A That is correct, where there is no industrial work or where there is just a yard like North Bend, there are no yard crews employed. All that work is done by the road crews.

Q By the road crews?

A That is correct.

Q And there are very many such smaller yards where there are no yard crews in the yard, is that not right?

A That is right. There is quite a number but I do not know the exact number.

Q But it is quite a number?

A That is right.

Q There is another question I would like to ask you. When you were describing a ladder track -- this is at page 396 of Volume 3, where you said:

"A ladder track perhaps can be described as being a straight

track from which other tracks lead."

Am I right in thinking that you do not mean it is a straight track in the sense of it being without curves?

A Some ladder tracks have slight curves, yes.

Q Only slight curves? You do not know of any ladder tracks that have pretty severe curves?

A No, I cannot recall particularly of any that have very severe curves. There may be some.



I am not acquainted with them all. There may be some that have severe curves.

Q Then one other little point, Mr. Shepp. I am referring now to the bottom of page 400 in Volume 3. The Chairman was asking you some questions and you were describing the work done in the yard and you had got to the point where you said that the engineer depended on the fireman to observe conditions ahead if the yardman is not on the ground at the switch where he should be. You had stated that in your opinion he ought to remain at the switch. The Chairman then asked you:

"In that case he would have to place the responsibility on the fireman; he would have to alert the fireman that he was depending on him for that function?

A. He would. He would have to alert the fireman."

I should like to ask you in regard to that: Is it not normal practice for the engineer to be asking the fireman questions as to whether it is clear, whether things are clear on the fireman's side; is not that the normal practice? Let me leave it there and ask you this question. Is not that the normal practice?

A No, I would not say so because I must again refer to my experience when I was working with steam engines that there were very few occasions that



LA-6

J. Shepp

I observed when I had the engineer within direct range of my vision all the time and he was sitting with his head out of the window and

I am sure he could not have addressed the fireman unless I heard him or saw him, although there may be some cases where he might ask the fireman. I am not going to say that there are none because I do not know every case.

Q You said "in your experience". As I remember, your experience never extended to working in the cab of an engine?

A No, that is correct, although I spent many hours in the cab.

Q You are suggesting, are you, that in those hours you spent in the cab of an engine you did not come across an engineer in the normal course asking a fireman for information about the situation on the fireman's side; is that what you are saying?

A Yes, I am saying that I have ridden with engineers many times on steam locomotives and for the reason that the engineer has sufficient view on his side there was no necessity to ask the fireman what the conditions were on the other side.

Q May I ask you if it is not also a common and regular practice for the fireman, without even being asked, to inform the engineer as to what the condition is on his side?

A The situation that we were discussing the other





LA-7

J. Shepp

day with respect to ladder tracks, on certain movements the fireman is not in position to see anything until the movement is fouled anymore than the engineer. All he can see is the position of the switch and the yardman standing on the ground gives him the signal. If he comes out without a signal he does so because he is pretty sure there is no other movement on the lead.

Q Can he come out without a signal? I had the impression that that would be against the rules, Mr. Shepp?

A Not exactly against the rules. If the yardman is not there and he comes out slowly and prepared to stop when he gets out, there is nothing to prevent him from coming out.

Q That would not be violation of Rule 7A; if he cannot see any signal he is supposed to stop, according to Rule 7A, is he not?

A He is supposed to stop within half the distance he can see, yes.

Q I do not quite follow that, I am sorry. Where does Rule 7A say that?

A That is the yard speed rule, it is not Rule 7A.

Q With great respect, what you are referring to now is not quite that. He is supposed to go at a speed which would enable him to stop in half the distance he can see. That is the rule you are referring to?

A That is right.

LA-2



J. Shepp

Q I am referring to Rule 7A which says if he cannot see the signal he just cannot make a movement; is not that right?

A We were talking about an engine coming out of a track and preceding a movement.

Q You said if he proceeds without a signal that that would be all right and I am suggesting to you it would not be, that it would be a violation of Rule 7A?

A I said if he could see when he came out of the track.

Q And even if there was no signal for him to proceed, he has the right to proceed?

A If he has received a signal from the track he is coming out of and he can see that the switch is properly set and he can see the lead ahead of him, then there is no reason why he cannot come out without a signal, a second signal from the lead. If he cannot see, then he must receive a signal.

Q That reminds me that at one point in your evidence you said to the Commission -- correct me if I am wrong -- that if an engine or train is on Track 1, coming off Track 1 on to a lead and has to go to Track 12, the engineer would be informed and then the engineer would not have to worry about any stop signal until he got to Track 12?

A That is correct.

Q Do you remember saying that?



LA-9

J. Shepp

A That is correct.

Q With a great deal of timidity, I suggest to you that an engineer would likely get into serious trouble if he did that and if he did not make sure that every one of the intervening ladder tracks off the lead between Track 1 and Track 12 did not have a movement on them that he might come up against; is not that so?

A No, that is not correct; certainly it is not so.

Q Why not? Could not something come out of Track 6 or Track 7 or Track 8?

A Are you speaking of an engine pulling something out?

Q Yes?

A Then the ground crew of that engine would protect anyone else coming in there as long as they are using the lead.

Q Then your suggestion is -- correct me if my understanding is wrong -- that the train we have in mind going out of Track 1 and going along the lead to Track 12, the engineer on that train would be dependent, not on his associates but on the people working the train coming off Track 6 or Track 7?

A No, he would be depending on the vision that he had, the signal that he received. The only purpose in giving him a signal to Track 12, as I stated before, is to avoid his continued looking to the ground crew with whom he is working for a stop signal. Then he would put his head in



the window and proceed to Track 12, keeping his eyes forward, and when he arrived at Track 12 he would look back for a stop signal.

Q What is your comment on this: If the ladder tracks coming off the lead are on the left-hand side?

A Yes?

Q Your suggestion is that when he got the signal to go from Track 1 to Track 12 no one, neither he nor the fireman -- the fireman being the only person who would be able to see since it is on the left -- ought to worry about looking for any movement off the tracks between Track 1 and Track 12 because they had received that signal; is that your statement?

A Did I say Track 1 to Track 12? I am not quite sure what I said because the distance there is relatively short. When I said that I had reference to my own experience in Calgary when we were coming out of P yard, which is a considerable distance from O-12, perhaps half a mile or maybe a little more than half a mile. Under those circumstances the engineer would be given a signal for Track 12 and he would proceed to Track 12, and he would have a view from his position of the clearance point of every car in the track off the ladder.

Q Because the ladder is on his right?

A The ladder is on his left, but in riding you can see -- there is a distance of perhaps 70





to 80 feet on the left side that is blind if you are standing, but in proceeding you have quite a range of vision across the front of that locomotive which gives a direct view of the clearance point of every car in the track.

Q Which locomotive have you now in mind?

A Either steam or diesel with the boiler in front.

Q Suppose we deal with a diesel switcher which goes in the right direction with its front going forward?

A That is right.

Q You are suggesting that the engineer sitting on the righthand side in that cab -- what would it be, 20 or 30 feet in front of the cab --

A Yes.

Q -- where the engine is located?

A Yes.

Q You are suggesting that an engineer sitting on the righthand side of the cab would have a view to his left for some 70 or 80 feet?

THE CHAIRMAN: No.

THE WITNESS: I said that there is approximately 70 or 80 feet of direct view on the left side that he does not have.

BY MR. LEWIS:

Q That he does not have?

A That he does not have.

Q I did not hear you correctly?

THE CHAIRMAN: If you project a line from the engineer's eye to the front of the locomotive



forward there is about 70 or 80 feet in front of the engine, as I understand the witness, which is blind to the engineer, but beyond that you can see.

MR. LEWIS: I did not hear him say it was blind.

BY MR. LEWIS:

Q In that 70 or 80 feet there would be some tracks in the vicinity, would there not?

A Not in that particular area to which I refer. I am giving that as one example where the engineer could move without a man on the front, but if there were a situation such as you have described from Track 1, then of course someone on the front of the engine would have to make the observation.

Q You have given some instances of affairs that have occurred and that have come to the company's attention. I suppose you would have no record of affairs, as you call them, which have been avoided by the action of some member of the crew and which would not be recorded, would they?

A No, I have not -- I do not have a record of any that have been avoided.

Q Would you agree that in normal course of events the alertness of your employees must have avoided many accidents that would otherwise have occurred?

A There must be some; I could not deny that there must be some where an accident was avoided by the action and vigilance of our employees.

Q And among those would be helpers on diesel engines



and firemen on steam engines who must in the normal course of events have been of assistance in avoiding accidents; would you agree with that?

A I would presume they would be included in the number I have mentioned.

Q Then you dealt with the Mother Hubbard type of engine, where --

THE CHAIRMAN: Before you go on with that.

BY THE CHAIRMAN:

Q In making such a movement as has been put to you, for instance from Tracks 1 to 5, where does the information come from to the engineer or yard crew in charge of that engine that there will be no movement on any of the intervening tracks? Is that a movement that is not made without such information or, if so, are those movements made as you have indicated without such prior information, either with the engineer being able to see forward or with the trainman or yardman riding on the front?

A That is right. I believe what you are referring to is another movement cutting in on a movement taking place on a lead.

Q From the intervening tracks?

A Yes. As I have stated before, the yard crews protect against each other and if there is a man working in a certain area on a lead another



yard crew would not enter that lead; that is they would not enter the fouling point. They might come down on the track and stand to clear until the foremen arranged with each other the performance that they respectively had to do on that lead.

Q What I have in mind is this: As I visualize it, a ladder track runs up and down, we will say, and there may be a lot more ladder tracks spreading out on each side roughly, going parallel or in the same direction; is that the picture?

A There is only one ladder track. There may be another ladder track on the opposite side which covers an independent yard.

Q Only one ladder track in one yard?

A Only one ladder track on each lead.

Q Only one ladder track in each yard?

A Oh, no, there are quite a number of ladder tracks in a yard, but one does not interfere with the others; they are independent.

Q If you have what you call a ladder track, you can have leads going off from either side, is that right?

A Ladder tracks and leads are the same. We should not make a distinction between a ladder track and a lead.

Q You use the words interchangeably, do you? You may refer to one track sometimes as a ladder track and another time as a lead?

A That is correct.





Q What I have in mind is this: If an engine, with or without cars, is proceeding we will say across a yard and having to cross a number of tracks to get to its destination; whether you call the tracks it crosses leads or ladder tracks, is that movement made without previous information being given to the engineer or the foreman in charge of that engine that it can be safely done at that particular time without interference from anybody else on those intervening tracks? Is it done under a condition like that?

A Yes, it is.

Q Always?

A It is done with proper protection, yes.

Q I am not talking about proper protection, I am talking about whether before that movement is started, which is an extensive movement covering some distance, the foreman in charge of that movement gets information from a yard office or someplace else which knows what is going on in the yard, that that can be done safely at that time without interference from any other movement on the intervening tracks; is it done that way, or is it done by co-operation between the yard crew in charge of the engine which is going to make the movement and all the other crews of all other engines at work in the yard?

A It is done in co-operation more than anything else amongst the crews. Each crew has its own



responsibility and works with the foreman.

Q I appreciate that. Let me put it to you this way: I am a yard foreman in charge of a yard crew which has a certain engine and I want to have that engine moved from Track 1 to Track 12 and in doing that I am going to have to cross a number of intervening tracks where I may get interference from other engines or crews that may move into my path. What I am asking you is this: If I want to do that, do I have to clear with some authority like the yard master or the yard office before I make a movement of that kind?

A No sir.

Q Then it comes down to this: If I want to make a movement of that kind I, being the foreman, get evidence according to what I can see?

A That is correct.

Q And then I go ahead and I watch or my crew watches, and in the same way I expect the yard crews in charge of any other movement that might interfere with me as I am making that movement to watch also to avoid having a collision.

A That is entirely correct.

THE CHAIRMAN: Mr. Sinclair, we have just been discussing this. You will of course appreciate that we have not met with some of these terms that are being used, which terms are second nature to you gentlemen down there. We have to get educated as we go along. In connection with this particular subject,



would it be possible for you to prepare for us a diagram of a yard, and then when a ladder track as distinct from a lead is referred to we can see it?

MR. SINCLAIR: Yes, Mr. Chairman. I can make a diagrammatic chart which could designate that.

HON. MR. McLAURIN: Each one separate, stating that this is a certain kind and this is another?

MR. SINCLAIR: I will have that done and run off some prints.

HON. MR. McLAURIN: Black and white prints, I hope.

MR. SINCLAIR: If you wish that type. I would have ordered blueprints.

HON. MR. McLAURIN: ..They are much harder to read.

BY MR. LEWIS:

Q Would you expect the same kind of co-operation between a road crew coming into a yard and the yard crew, or would that create difficulty?

A No, that would not create difficulty. I would expect the same kind of co-operation. They are required to look and make proper arrangements.

Q I was coming to the Mother Hubbard engine with the cab where, if I remember correctly, the boiler gets into the cab a long distance and divides the space in the cab where the engineer sits



from the space in the cab where the fireman used to sit?

A That is correct.

Q You produced that evidence to show that there was an era in the railway's history where you had an engine where the engineer and the fireman could not see each other at all. Was not that the purpose of your evidence?

A That is correct.

Q Mr. Shepp, are my instructions correct that the engineer's throttle was on top of this boiler that protruded into the cab?

A I believe it was pretty high up. I am not so sure about the top.

Q You are not sure it was on the top?

A No, I am not sure exactly.

Q If I tell you my instructions are that it was on top of the boiler would you quarrel with that?

A No, I would not quarrel.

Q As a matter of fact, my instructions are that it was on top of the boiler and that there was a sort of extension of what might be called the handle of the throttle with a bit of a bend in it that produced the handle itself a little below the top of the boiler. Does that refresh your memory at all?

A Yes, I think there was some bend. It was arranged for the convenience of the engineer.





Q And the enginner would be working that throttle, would he not, sitting at his seat and stretching his arms out to do it while he sat in his seat; is not that right?

A Sometimes, and I remember quite well an engineer who was standing up most of the time moving the throttle.

Q But usually he would be sitting down, would he not; most of the engineers --

A Depending on the work that was going on at the time.

Q Let me put it to you this way. He could run that engine sitting down, is that right? He could work the throttle sitting in his seat? He did not have to stand to work it, is not that right?

A Yes, he could.

Q Therefore the top of that boiler could not be so high, could it, if you or I could work the throttle which was on top of the boiler while we sat in our seats?

A It was sufficiently high so that when he was sitting in his seat he could not see the fireman in his seat.

Q But if the fireman stood up he could see the engineer, is that right, over the boiler?

A I am not sure about that. I think probably he could; if he was tall enough, yes, he might be able to see over the boiler.

Q Therefore there was nothing to prevent the engineer and the fireman in that type of engine from talking



to each other or from being heard?

A They would have to shout extremely hard.

Q Why would that be the case, Mr. Shepp?

This was a steam engine, not a diesel engine.

A Because the boiler was in between them. They would have to stand up; both of them would have to stand up to talk to each other. I never heard them talking to each other.

Q You never heard them talking to each other?

A Not in that type of engine, no.

Q You are saying, are you that in order to be heard they would have to shout to each other if they attempted to talk to each other?

A I would think so.

Q Is that what you are saying?

A That is the way it appeared to me when I worked on that type of engine.

Q That was your experience, is that what you are saying.

A Yes.

Q Then you dealt at another point of your evidence with this thing of the engineer being distracted by the presence of a fireman. A helper works on passenger trains, does he not?

A Yes.

Q And your company is not proposing to remove the helper from diesel engines on passenger trains, is it?

A No, it is not.



- Q If this question of the distraction is as important as you have made it out to be, Mr. Shepp, would it not be a very important consideration in the case of a fast passenger train?
- A I think it is important at any time that there should be attention to the business of operating a train or engine.
- Q Yes, Mr. Shepp. It is your view, is it, and your company's view, that the danger of distraction of the engineer by a helper is not great enough to make the helper's work on a fast passenger engine undesirable; that is your view, is it?
- A I would like to hear that question over again, please. I was trying to follow you.
- Q Is it your view and your company's view that even though the helper might distract an engineer, <sup>that</sup> the danger of/distracton on a fast passenger train is not sufficient to make you decide to remove the helper from diesel engines on passenger trains?
- A Well, the helper on a passenger train has a specific duty to perform.
- Q Which is what?
- A Just looking after the steam generator, and because he is a member of the crew he has also the operating rules to follow, and on a fast passenger train it cannot be compared to the situation as it applies to a yard engine because when a train is moving very fast, as you have



described this, I should imagine that both men are concentrating on movement of that train.

Q You are now suggesting, are you, that when you are in a fast-moving train with human lives in the cars the danger of distraction is less than when a helper is working on a yard engine?

A I did not say that, and that is not what I meant, sir.

Q What did you say?

A I said that when they are in the engine of a fast-moving passenger train the situation is entirely different to the situation that I referred to in yard service where both the engineer and fireman on a passenger train have a motion which they must watch and they have a responsibility with respect to the compliance with the operating rules under such circumstances.

Q All right, Mr. Shepp. Do you think that you could have a dead man control on yard engines?

A Yes, I am informed that there would be no difficulty in equipping yard engines with dead man controls.

Q I am certainly not a mechanical person but how would that work in the case of an engineer on a yard engine who is constantly swivelling from one side to the other.

A Yes.

Q How would he do that, how could he turn around, for example, as he frequently has to do, almost half the time, would you not say?





A Yes.

Q How could he do that and have his foot on this dead man control, which he could do when he was facing the other way?

A I do not know what type of dead man control would be considered under those circumstances. When I referred to a dead man control it does not mean that it would have to be a footplate. There may be other methods that could be employed.

MR. LEWIS: Mr. Chairman, I am afraid I am not likely to get through today unless we could go through for another three-quarters of an hour. I have to deal with arbitraries. I am ready to go on but I thought I would draw that to your attention in case you thought I was just coming to an end.

THE CHAIRMAN: I hope you did not think I was not paying attention.

--- The Commission adjourned at 4.10 p.m. until 10.30 a.m., Thursday, March 14, 1957.

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*Amended: B66*

ROYAL COMMISSION ON EMPLOYMENT OF FIREMEN  
ON DIESEL LOCOMOTIVES IN FREIGHT AND YARD  
SERVICE ON THE CANADIAN PACIFIC RAILWAY

9

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Hon. Mr. Martineau







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ROYAL COMMISSION ON EMPLOYMENT OF  
FIREMEN ON DIESEL LOCOMOTIVES IN  
FREIGHT AND YARD SERVICE ON THE  
CANADIAN PACIFIC RAILWAY

Proceedings of public  
hearing held at Ottawa,  
Ontario, Thursday,  
March 14, 1957

PRESENT:

Hon. R.L. Kellock,	Chairman
Hon. C.C. McLaurin,	Member
Hon. Jean Martineau,	Member
Douglas M. Fraser,	Secretary
A.R. Winship	Asst. Secretary

APPEARANCES:

D.W. Mundell, Q.C.	Representing the
C.J.A. Hughes, Q.C.	Commission
I.D. Sinclair,	Representing the
John Pearson,	Canadian Pacific
	Railway Company
David Lewis, Q.C.	Representing the
	Brotherhood of
	Locomotive Firemen
	and Enginemen

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9TH DAY

MORNING SESSION

--- The Commission opened at 10.30 a.m.



JOHN SHEPP, Recalled

MR. SINCLAIR: Mr. Chairman, yesterday the Commission requested that a sketch be prepared and we have had one run off. It is not as clean as I would have liked to see it, but I think it is legible enough. It is half white and blue. The sketch shows the designation of tracks, not to scale, and is dated March 13, 1957 at Toronto.

EXHIBIT No. 52 -- Sketch of yard tracks.

MR. SINCLAIR: Perhaps I might just run through this and as we have Mr. Shepp in the box, anything that I may say that is not correct he can correct me, or if there are any questions perhaps we can clean them up.

This sketch shows on the left-hand side two main tracks. It shows a switching lead coming off the most northerly of those tracks with a switch lead at the right-hand side of Exhibit 52. The switch lead is marked there.

Then coming along the switch lead toward the left there are two other switches, one switch to continue on the runaround track, which is also known as a running lead. The runaround track is sometimes referred to as a running lead. The other switch puts you on to the lead track or ladder track.

On this lead or ladder track are switches to enter into the body tracks also known as yard tracks. Those extend right across to the lead or ladder track



on the other side which comes down to a switch that takes you, if you want to continue -- there is a switch from the body track to the ladder track to come down on to the lead and to continue out to the left of the plan to what is known as a tail track or switching tail. That track is a <sup>dead</sup> ~~dipped~~-end track, as will be seen from the sketch.

Part way down there you will note there is a crossover, that is to move from the lead or ladder track down on to the main line again. Going along a little further you will see another crossover to put you on to the other main track.

At the top of Exhibit 52 is a sketch of the details of a switch. Each time there is a switch there is this detail. You will see that at all these turn-outs there are guard rails and what is known as a frog, where the two rails come together. That is marked on the sketch.

If you continue over the switch points coming down into where the switch joins, there is a switch stand, which is also marked.

Then it will be noted that the purpose is that the yard tracks are straight, as one witness explained, except at their ends, which is where the turn-out takes place. The lead tracks are angled, the lead or ladder tracks swinging off to what is known as the switching lead.

Now sometimes a terminal yard may have a number of these. This is not meant to be anything but diagramatic. You will notice we have



shown only eight body or yard tracks, but that number could be extended and even on this sketch there could be a couple more put in. Some yards have as many as 38 or 40.

BY MR. SINCLAIR:

Q Mr. Shepp, is that not right?

A That is correct, 48.

MR. SINCLAIR: With that explanation I have tried to summarize this exhibit. I am sorry I have not very many copies.

BY MR. SINCLAIR:

Q Mr. Shepp, is there anything you would like to add or any correction you would like to make of my general summary of that exhibit?

A No. I think the exhibit clearly defines the manner in which the yards are constructed.

BY THE CHAIRMAN:

Q Is there any significance in the fact that on the right-hand side there is what is referred to as a switching lead and on the left-hand side there is a switching tail?

A The significance there is that the switching tail is a dead end track whereas the other end, the switching lead, continues on to the main track.

Q Apart from that then, you could have trains or cars or locomotives or whatever it is, coming from the main tracks into the yard tracks from either end?





A That is correct.

BY MR. LEWIS:

Q Mr. Shepp, you were telling the Commission the other day about a proposal made by the Canadian Pacific Railway toward the end of 1953 for the removal of helpers from diesel engines, which went into negotiation in 1954, is that right?

A That is correct.

Q What was the result of those negotiations? Was there any change made?

A In what respect, would you please tell me?

Q Was there any change made with regard to the payment to diesel helpers?

A Yes, they were increased or extended in their rates of pay to the firemen which included diesel helpers.

Q Did not this take place, Mr. Shepp. Up to that time, up to 1954, or at that time during your negotiations, the contract with the Brotherhood of Locomotive Firemen and Enginemen provided for a maximum of 500,000 pounds on drivers in the progressive scale of pay; is that right?

A That is correct, yes.

Q In other words, there was an increase in the daily rate at certain steps, beginning with a low, whatever the low was, and going up to 500,000 pounds as a maximum; is that right? If you were on a locomotive with a weight on



drivers higher than 500,000 pounds you still only got the maximum for the 500,000 pounds level, is that right?

A That is correct.

Q Is it not right that as a result of your negotiations in 1954 that maximum was increased to 1,000,000 pounds weight on drivers?

A It was extended to 1,000,000 pounds, but I am not entirely sure, without referring to the records, whether that extension was made in 1953 or whether it was made in 1954.

Q I show you Exhibit 1, which is the agreement which became effective February 16, 1954?

A Yes.

Q That extension to the 1,000,000 pounds on drivers is in that agreement, is it not?

A Yes, it is in that agreement.

Q At page 11?

A But my statement was that I am not sure whether that extension was made during the negotiations of 1954 or whether it was made the previous year. However, the extension was from 500,000 pounds to 1,000,000 pounds.

Q Mr. Shepp, my instructions are that it was made during the negotiations in 1954. Would you like to check that?

THE CHAIRMAN: That can be easily ascertained, Mr. Lewis.

MR. LEWIS: I can easily ascertain that.



BY MR. LEWIS:

Q You informed the Commission in answer to some questions by the Chairman that the duties of a fireman, in addition to those which you informed him are contained in the Uniform Code, were spelled out from time to time in bulletins, is that right?

A They were included in the collective agreement for many years and I think they were drawn from the collective agreement.

Q Mr. Shepp, without looking at the page, can you not recall now that those duties were set out in bulletins from time to time, in addition to their having been once in the collective agreement?

A I do not recall making that statement. Perhaps you can refer to the transcript.

Q It is being looked up, but can you tell me now whether there have been such bulletins over the years setting out from time to time the duties of firemen or helpers?

A I understand that there have been bulletins issued and my inquiries, particularly in the Western Territory, indicate, and I was informed, that no such bulletins had been issued on the Western Territory, although I was also informed that some bulletins were issued in the Eastern Territory.

Q Don't you think any bulletins were issued in Vancouver or Calgary setting out the duties



of firemen or helpers since the end of the war, sir?

A I do not specifically recall any that were, although there may have been some that did not come to my attention.

Q If bulletins were issued would they be kept on a file?

A I am not prepared to say that they would be kept on a file because we have a system within our organization that provides for destroying files that are seven years old and over and in many cases, in order to provide sufficient room, we have to clean out a lot of our old files and destroy them.

MR. LEWIS: I am sorry to put my learned friend's advisers to trouble, but I suspect they will have a fair amount of time. I would like to request at this time that a search be made for bulletins relating to the duties of firemen or helpers, as far as they may be available.

THE CHAIRMAN: You will have that done, Mr. Sinclair?

MR. MUNDELL: Covering what period?

MR. LEWIS: I would have said from 1949, but at least from 1949 on.





MR. SINCLAIR: I certainly will get what I can, but there are various bulletins which are issued at individual terminals, individual bulletins. Bulletins are issued, of course, on a local basis, on a regional basis and on a system basis. The way my friend has put it to me, here again he could have asked me about this before. This is really quite a task, if I have to take every division, every district, every region in a search for all the bulletins that are issued -- that were issued -- on the Canadian Pacific for, say, five or six years. But if my friend could say specifically -- if he could give me the ones which he has particularly in mind, whether division or system bulletins or what. When we get down to the divisional level it is quite a task to find these things unless my friend has something specific in mind.

MR. MUNDELL: This is a request I was going to make, since the issue concerns the duties of firemen among other things, and I think it is only reasonable we should ask for all duties bearing on firemen for the relevant period, that is to say from 1949 onward -- I think that is approximately correct.

THE CHAIRMAN: We are just trying to find out what is involved in this request. What did you have in mind, Mr. Lewis?

MR. LEWIS: I appreciate the situation, but I think, first, we ought to have all system



bulletins relating to firemen.

THE CHAIRMAN: Since when?

MR. LEWIS: I would like a search to be made back to 1945 when diesel power first began. If there were not any beyond 1950 or 1945, my friend's people will know that the bulletins are destroyed.

THE CHAIRMAN: Mr. Shepp said seven years under the system in practice.

MR. SINCLAIR: Bulletins may originate from Montreal, or they may originate from regional level. Some bulletins -- I have one in mind -- apply to all regions, all divisions; others that I know about are not across the system. If my friend would give me the specific divisions then, if there is a national one in each of them, it will turn up in four divisions.

THE CHAIRMAN: Let me suggest that you confer with Mr. Lewis and Mr. Mundell and find out what it is you are being asked to have, and then we will see.

MR. SINCLAIR: I would certainly like to give the Commission anything that would delineate the duties of firemen without delineating specific things at one individual place -- where, for instance, there are restricted clearances they may be bulletined showing the fireman which they are. That is a bulletin to firemen.

MR. MUNDELL: It seems to me, Mr. Chairman, that we should have all bulletins that bear on the duties of firemen. I am thinking in particular



of one I have seen which mentions five areas where certain special practices have to be adopted.

THE CHAIRMAN: I have suggested that you three gentlemen confer. You may have to discuss this with us again if you do have any difficulty.

BY MR. LEWIS:

Q In connection with that also, Mr. Shepp, you stated, if I recall correctly, that a couple of years ago there were instructions issued verbally in some way to helpers not to do anything on diesel engines or something to that effect. Do you recall that?

A Yes, that is correct. I did say that.

Q How would verbal instructions like that be transmitted, Mr. Shepp? First, where would they originate from?

A Well, I recall particularly one incident. The firemen were making continuous checks of the oil level; they were continuously requesting five gallons of oil, and so on. They were concerned about it, and finally our maintenance people checked it very closely and we were informed that it was not good policy to add oil in small quantities -- that there was sufficient oil in the locomotive for its satisfactory functioning for a certain specified time.

THE CHAIRMAN: A diesel locomotive?

THE WITNESS: Diesel yard switcher.

And in order to eliminate any concern about the oil,



because our maintenance people were looking after it, verbal instructions by the divisional master mechanic were issued to the firemen over a certain period that there was no concern -- that there was nothing we wished them to do on the locomotives.

THE CHAIRMAN: Is this Vancouver?

THE WITNESS: This is Vancouver.

BY MR. LEWIS:

Q Is it not a little unusual that you should give that sort of instruction in that way instead of by means of a bulletin?

A No, I don't think it was unusual in that situation because it was not necessary to give the instruction to every fireman. There were a number who were showing more concern than others; others showed no concern whatever.

Q I see now that what you are referring to was not anything to do with a fireman's duty generally; you are referring to instructions given to a few people who were a little too eager about their duties; they had not any general application, then, these verbal instructions?

A It did, to the men I have referred to. They had apparently assumed that they had the responsibility.

Q Mr. Shepp, will you please answer this question, which is fairly simple. I am just asking you whether it is right that what you have now told





me means that the verbal instructions you referred to had no general application to all the helpers, but that they were directed to some helpers who had been too eager about this oil supply. Is that right or wrong?

A That is right, yes, but I qualified it by saying there were some who had been particularly concerned, and there were a good number who had shown no concern.

Q Yes, and what other kind of verbal instruction do you recall issuing a couple of years ago?

A I do not definitely recall each one, but if I remember correctly there was an engine shutdown at a particular location, and some attempt was made by the fireman to start it, and it was at that time that the divisional master mechanic also told him: In such circumstances, phone the maintenance. Those are the only two that I recall.

Q From that, would I be right in suggesting to you that you would not be likely to issue instructions about the duties of helpers generally in that way, but that you would issue them through bulletins. Would that be right?

A That would be right. If there were any instructions that I desired to issue to all firemen they would be issued by means of bulletins, and I have no doubt that through my own division bulletins were issued over



my name in connection with steam service that dealt with matters that concerned firemen.

Q We now come, fairly briefly, Mr. Shepp, I hope, to your evidence regarding the arbitraries, and I would like first to turn your attention again to general rule M on page 4, the very first paragraph, where it says:

"Employees must exercise care to avoid injury to themselves or to others."

Then the next sentence:

"They must observe the condition of equipment and tools which they use in performing their duties, and when found defective will, if practicable, put them in safe condition, reporting defects to the proper authority."

Am I right in suggesting to you that the preparatory duties of the engineer and his helper on a diesel and of the engineer and his fireman on a steam engine are in effect demanded by this paragraph I have just read?

B-2 A I would say that certainly that is the intent of the instruction. I would certainly say that anyone who comes within the range of this instruction would be responsible to perform the duties so specified.

Q Right. Well, then, when we come to the preparatory arbitraries on steam -- this,



of course, does not refer to your Exhibit 37 which dealt with your observations on diesels only -- isn't that correct?

A That is correct.

Q Preparatory duties on steam, they still remain what they have always been, don't they?

A As far as I know the duties on steam remain in so far as the engine crews are concerned.

Q Suppose I go over some which, I have been instructed, are performed, and you tell me whether I am right or not. The fireman in a steam engine -- I am talking about steam now -- has to check the fire, and, if it is necessary to do so, build it up. Is that right?

A That is right.

Q He has to check the fire box and the crown sheet, is that right?

A Yes, I think so. That comes within his responsibility.

Q And then he has to check certain equipment, as to whether he has got an extra water glass in case the one on the boiler breaks?

A The engineer also has that responsibility.

Q Yes, and the engineer has the authority, has he not, to delegate the actual checking to the fireman? Isn't that right?

A He has authority to delegate certain things to the fireman.

Q Am I right in suggesting to you that that is



one of the duties he usually delegates to the fireman?

A I am not in a position to say, because I have not actually followed the engineers. In some cases, I think, the engineers perform the inspection of the crown sheets.

Q If you are not in a position to say, I can appreciate it. Then the fireman has to make sure he has all the supplies connected with this firing job -- the shovels, or the shovel, and various other little tools, or big tools, connected with the job. Is that right?

A I am not certain about that because there have been some reductions in the inspection and the duties that are required of firemen and at this time those duties are not too fresh in my mind, I mean with respect to the duties of a fireman on steam engines.





Q And that reduction in his duties, where would that be found?

A Well, that was specified in the collective agreement.

Q You are referring to the exhibit that Mr. Gossage filed?

A That is correct.

THE CHAIRMAN: What is the number of that exhibit?

MR. LEWIS: I have just asked that it be looked up. It is Exhibit 7, referring to Exhibit 7 that Mr. Gossage filed.

BY MR. LEWIS:

Q But these duties, as you reminded me earlier, were omitted from the agreements since 1954, if I remember correctly? That is right, is it not?

A That is correct, yes.

Q Has there been any reduction in the duties since February of 1954 that you know about?

A Yes, I believe there have been some instructions issued since with respect to the duties of firemen.

Q And we would find those, I suppose, in any bulletins that Mr. Sinclair is able to find?

A That is right, yes.

Q Then I do not need to belabour it?

A That is right.

Q Now, the fireman has to check the flagging equipment and the supply of fusees, does he not?

A Yes, that is a responsibility jointly. The head



trainman or engine follower or members of the yard crew are also require to ensure that they have the proper flagging equipment available to them because they are the ones that do the flagging.

Q Then, either the engineer or the fireman on a steam engine must test and blow out the water glass and check the try-cocks? Is that not right?

A That is right.

Q And also the engineer, or under his instructions the fireman, has to check the ashpans to see they are clean and properly secured? That is right, is it not?

A That is a responsibility of the shop as far as when they are preparing an engine to see that the fire is in proper order.

Q Are you suggesting that the engineer and his fireman have no responsibility to check before they take the engine out that these things are in order?

A I would assume that they would like to check it.

Q Do you not think that the paragraph in general rule M on page 4, which I read a little while ago, makes it their duty to check it? They must observe the condition of equipment and the tools which they use in performing their duties?

A That is correct but --

Q Do you not think that means --

MR. SINCLAIR: He said "but .

THE CHAIRMAN: His answer was incomplete.

THE WITNESS: I said that is correct but



rule M is a general rule that covers all services and I presume that you are speaking to me about yard engines, yard steam engines.

BY MR. LEWIS:

Q I was speaking of both. Let us take yard steam engines first. Would that not still make it the duty of the engineer and his fireman?

A I would say that the importance of that inspection is much minimized in yard service. It would be much more important in road service.

Q Yes. You mean that in yard service the engine is never too far away from the maintenance people so if anything does go wrong it can be quickly remedied?

A That is correct. You can always go back to the shop.

Q Right, but that does not necessarily remove the duty of the engineer to see that it is right?

THE CHAIRMAN: You said "engineer". Do you mean "fireman"?

MR. LEWIS: The engineer or, by his delegation, the fireman, Mr. Chairman.

THE WITNESS: The engineers, I presume, would want to know that their engines ~~were~~ were in good condition when they left the shop track, and I would say it is a duty of an engineer, yes, to know that.

BY MR. LEWIS:

Q And he frequently delegates that duty to the fireman if he is busy checking the air brakes or something that he must himself check?



A He may, yes.

Q Now, in the case of the diesel engine you gave us in your Exhibit 37 what you observed, but if the helper did what he should do you tell me whether he should not check the following things both on yard and road engines. Should he not check the lamps to make sure there is a red lamp and a white lamp available?

A Again that is a joint responsibility on the part of the trainman who uses the lamps and also the engineer. It is certainly an engineer's responsibility when he goes out on the road that he has all the equipment necessary.

Q But he does in fact, does he not, leave it to the helper on the diesel engine because he is busy checking the brakes primarily? Is that not right?

A No, I would not say so. I am not thinking for an engineer but I certainly feel that the engineer would be more confident if he had made the observation himself that he had all these things.

Q Mr. Shepp, suppose that an engine left a shop track and something happened as a result of which you learned that the engine had left without lamps or without one of the necessary lamps. I suggest to you that you would hold the helper equally responsible with the engineer for that? Is that not so?

A I would hold any member of the crew that was associated





with the movement equally responsible. If there was a trainman on there he would also have a responsibility.

Q Let us take a yard engine first. There would not be a trainman on a yard engine?

A No, there would not be a trainman.

Q And if you were to hold the helper equally responsible with the engineer, do you not agree that it is the duty of the helper equally with the duty of the engineer to make sure that the lamps are there?

A On yard engines there are no lamps such as you speak of.

Q There is some other equipment of that sort, is there not?

A There is front and rear headlights.

BY THE CHAIRMAN:

Q They are permanent fixtures?

A Yes, they are permanent fixtures.

BY MR. LEWIS:

Q And they have to make sure that there are bulbs available for them?

A They have a supply of bulbs.

Q And flagging equipment?

A They have flagging equipment on the engine.

Q And I am suggesting to you that if you hold the helper equally responsible with the engineer if they leave without any of this equipment, is it not a fair conclusion that it is the helper's



duty equally with the engineer to make sure the equipment is there?

A I said as long as the helper is employed on there, yes, he is jointly responsible.

THE CHAIRMAN: Does the witness include in the responsibility for these things you have been mentioning in the case of a yard engine the yard crew?

BY MR. LEWIS:

Q Do you hold any of the yard crew responsible if some of these supplies are not on the engine when the engine goes on its job?

A In so far as flagging equipment is concerned, I certainly do hold the yard crew responsible.

Q But in so far as bulbs or coal oil for the lamps at night?

A Anything that has to do with the operation of the locomotive itself I do not feel that the yard crew are responsible to make any checks.

THE CHAIRMAN: Where is the coal oil used?

BY MR. LEWIS:

Q What is the coal oil used for in the engine, Mr. Shepp?

A Well, it<sup>is</sup>/sometimes used for a light which they use which used to be called -- I have forgotten the expression now.

Q It is an oil lamp?

A An oil lamp.

Q That they have to have available?

A A torch is what I --



THE CHAIRMAN: Is that a signalling lamp?

BY MR. LEWIS:

Q Is it a signalling lamp?

A No, it is not a signalling lamp.

Q What is it used for?

A It is used at night time inspecting the engine, the engineer feeding, using his oil feeder on the bearings.

BY THE CHAIRMAN:

Q Does that apply to both steam and diesel?

A That only applies to steam, sir.

BY MR. LEWIS:

Q I am instructed, Mr. Shepp, that there is both the torch which is used for inspecting the things you have mentioned and that this oil lamp is also used for signalling. Is that not so?

A There is a red lamp that the yard crew are required to have available for flagging purposes or for protecting purposes. The operating rules require that the yardmen use a red light on cars that are left unattended on certain places on main tracks, and for that reason they are required to have a red lamp.

Q Mr. Shepp, that would not be on the engine? The yard crew would have that with them, would they not?

A No, they sometimes carry it on the engine. Most generally it is carried on the engine because they



do not use a red lamp in their normal work for signals.

Q And in respect of that you say you would hold both the helper and the yard crew as well as perhaps the engineer responsible if it is not there as it should be?

A I would say that the major responsibility rests with the ground crew.

Q Mr. Chairman, will you permit me to make to the witness this explanation. In view of something you said a moment ago, Mr. Shepp, we are now dealing with the arbitraries and my questions are directed to that and assume that the fireman or helper is still there for the moment.

A Yes.

Q So that what I am trying to get from you, Mr. Shepp, are the duties which he ought to perform since he is still there. It is not related to the question whether or not he should be there?

A That is right.

THE CHAIRMAN: You are speaking of steam and diesel?

MR. LEWIS: I am now speaking of diesel. I dealt with steam before.

BY MR. LEWIS:

Q Is it not also as part of his preparatory duties the duty of the helper under instruction of the engineer to check the governor for oil, to check the filter and to check the water level?





A Not since the duties have been specifically stated in so far as firemen are concerned.

Q Where were they stated?

A I believe there has been a bulletin issued which specifies the duties of firemen on diesel locomotives.

Q Are you referring to the bulletin issued in October, 1956?

A I believe it was around that date.

Q Suppose I show it to you. It is sheet 6 and again sheet 10 of Exhibit 7. Is that the one you are talking about?

A Yes, that is the one.



J. Shepp

Q The first duty that is specified in this bulletin, duties of helpers on diesel units, the very first one is to assist enginemen?

A That is correct.

Q My question to you was whether it is not the duty of the helper under the authority of the engineman to check the governor for oil, to check the filter, the water level?

A I would say that such a responsibility would rest with the engineer. However, if the engineer wishes to shift such a responsibility to the fireman I would say that that would come within the range of his authority.

Q Now, Mr. Shepp, if the engineer has in the past delegated those duties to the helper, and you now want him to do them, then it would add to the engineer's preparatory duties; is that not right?

A No, because the engineer has the first responsibility with respect to the condition of that engine when he leaves the shop track.

Q Do you not agree that up until now the engineer concerned himself mainly with checking the brakes and those major parts of the engine, and almost always delegated the duties I referred to to his helper. Has not that been the fact?

A I have not found it so during my various observations.

Q All right. Now, with respect to this observation you made on February 18, if I remember correctly, in connection with Exhibit 37, did you check to

1891

Received of the Hon. Secy. of the Navy  
the sum of \$100.00 for the purchase of  
books for the library of the

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see how long it takes to walk from the booking out office to the shop track or starting spur or whatever you call it?

A Well, I did not put a stop watch on anyone but I know I can walk that distance very comfortably in three to four minutes.

Q In about three to four minutes you could walk it?

A Yes.

Q You did not check it yourself?

A No, I did not.

Q The time?

A No.

Q As part of the work. covered by this preparatory arbitrary the time it takes to go from the office to the shop track is included, is it not?

A Yes, that is included, yes.

Q And the time that it takes the helper to book out or the fireman in the case of a steam engine, to book out is also included, is it not?

A Yes, that is correct.

Q Would you agree that the booking out, including the reading of the bulletins, would take a couple of minutes?

A I would say it would take not more than a couple of minutes; in many cases a minute or less than a minute.

Q Yes. And then we have, if I may go over it, -- shall we take three minutes to four minutes as the time it would take to walk --



J. Shepp

A I would take the maximum of four minutes.

Q Yes. We have the four minutes it would take him to walk from the booking out office to the shop track and the two minutes that it would take to book out. Shall we make it six minutes? Right?

A Yes.

Q What is the preparatory arbitrary in the case of steam service in Vancouver?

A Thirty minutes.

Q And the preparatory in the case of diesel in Vancouver?

A Fifteen minutes.

THE CHAIRMAN: That is not in accord with Exhibit 5.

MR. LEWIS: It is in Exhibit 5.

THE CHAIRMAN: The answer is not in accord with Exhibit 5. It is 30 minutes in each case, if I am looking at the right thing.

THE WITNESS: Yard service is 30 and 15.

MR. SINCLAIR: The last one is yard service. You are looking at freight service.

THE CHAIRMAN: Yes.

MR. LEWIS: Thirty minutes in each case for freight service; 15 for yard service.

THE CHAIRMAN: All right.

BY MR. LEWIS:

Q In the diesel preparatory it is 15 minutes; right?





J. Shepp

A That is right.

Q So we have six minutes out of the 30 in the case of steam and six minutes out of the 15 in the case of the diesel taken up with the booking out and the walking to the track; that is right?

A That is right, yes.

Q That leaves 24 minutes for the actual work on the steam engine and nine minutes for the actual work on the diesel engine by the fireman?

A That is right.

Q Now, in the final arbitraries the fireman has certain duties on the steam engine, has he not?

A Yes, to bank his fire and see that the boiler is supplied with water.

Q And he has some additional duties in the winter, has he not?

A Not that I can recall.

Q Would he not have to check the heating devices in the winter to see that <sup>are</sup> they/ properly set and operating?

A They are operating throughout the shift; he would know that they are operating.

Q You say that he does not have to check them, particularly when he gets off the engine?

A I don't think so, no.

Q Suppose the engine had to stand a little while before it was taken out again after the shift was over, would he not have to make sure that the injector does not freeze up while the engine



J. Shepp

is standing?

A No, the engine would come within the responsibility of the shop staffs as soon as he left it there.

Q Suppose, Mr. Shepp, that , something happened and the injectors did freeze, and a complaint was made to you and on your investigation you found that the fireman had failed to check the heating devices before he left the engine, would you not discipline him for it?

A I certainly would discipline him if he was not aware of the condition of it when he came in, yes.

Q Well, then, it is his responsibility to make sure when he gets off that engine that it is in good order?

A That is right, it is his responsibility.

Q Then, of course, he has to walk back to the booking in office which is the same as the booking out office, I suppose?

A That is right, yes.

Q He has the same four minutes to get to the booking office from the shop track; right?

A It depends on the various locations. The one that I referred to was specified. It was a diesel shop. In others the distance may be shorter or greater.

Q In the Vancouver yard it is four minutes from the diesel shop to the booking in office; right?

A Yes, that is right.



J. Shepp

Q Would he also take a minute or two to book in?

A He would take a minute, yes.

Q If there are any bulletins in the bulletin book he might take a little longer to read them?

A I do not think on his way in.

Q You don't think so?

A No.

HON. MR. McLAURIN: Have you got out of one locomotive? Can you get us into another one, road service or something?

MR. LEWIS: No. This chap, when he leaves the locomotive, has to walk back to the office to book in.

HON. MR. McLAURIN: Book out.

MR. LEWIS: Book out. Before we leave this phase, sir, he books out when he goes to work; he books in when he comes off the job.

HON. MR. McLAURIN: That is the final thing he does.

MR. LEWIS: That is correct, yes.

BY MR. LEWIS:

Q Now, the final inspection arbitrary for yard service is 15 minutes?

A That is correct.

Q And for diesel it is only 10 minutes?

A That is correct.

Q Out of the 15 minutes steam he would again take five to six minutes in the walking and booking in; right?

A Yes; but that five minutes or ten minutes that you speak of may be, and in many, many cases



J. Shepp

is, within the eight hours of his working shift. In other words, he might be off the property and on his way home before his eight hour shift expires.

Q I think you said in your evidence that in your experience his actual time on duty would be between seven hours and forty-five minutes and seven hours and fifty-five minutes? I think that is what you said?

A Yes, that is correct.

Q Leaving that aside for the moment, of this final arbitrary some five to six minutes would be taken up in walking to the office and booking in?

A That is correct.

Q Leaving in the case of the steam engine, some nine minutes or ten minutes for any work on the engine, and in the case of the diesel engine some four minutes or five minutes for actual final inspection. Is that right?

A That is correct, yes.

MR. LEWIS: I am glad to inform you, Mr. Chairman, that that ends my cross-examination.

THE CHAIRMAN: Have you any re-examination, Mr. Sinclair.

Mr. SINCLAIR: I will be very short, sir.

BY MR. SINCLAIR:

Q Early in Mr. Lewis' cross-examination, Mr. Shepp, he referred to people in the yard and in the group he referred to my note is that he mentioned





J. Shepp

car men working in the yard. Now, I take it he had in mind yardmen working on cars and rep tracks, or repair tracks. Is that what you gathered from his questions about car men?

A Yes, I did.

Q Car men on steam yard track where there was, we will say, a burnt off journal and the car was down even on a main yard track?

A That is correct.

THE CHAIRMAN: The point of these questions was the number of people moving around the yard, regardless of what they were doing.

MR. SINCLAIR: Yes. I wanted to ask the witness a question about how they were protected. I think the witness said in regard to maintenance force they appointed one of their own members as a look out. I was going to ask him if these car men protect themselves when they were working in yards on cars.

THE WITNESS: They certainly do. They are protected by a rule, Rule 26, in the operating code of rules, which is a rule which is most sacred to yard employees.

BY MR. SINCLAIR: Q. What is this known as, do you recall?

A The blue flag rule.

Q Rule 26. That is on page 34 and reads as follows:

"A blue signal displayed at one or both ends of an engine, car or train, indicates



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that workmen are under or about it; when thus protected it must not be coupled to or moved. Each class of workmen will display the blue signals and the same workmen are alone authorized to remove them. Other equipment must not be placed on the same track so as to intercept the view of the blue signals without first notifying the workmen."

You say that is one of the sacred yard rules?

A It is one of the most sacred rules which yard employees respect because they know that there are men working under or about cars who are protected by blue flags, or engines.

Q My friend also asked you certain questions about Calgary and about <sup>N</sup>~~and~~ yard, and as I recollect his evidence, and my note he was talking about <sup>N</sup>~~and~~ yard, and the evidence that you gave, summarising the exchange, was that you said that they went down there, they marshalled their trains generally for cars being spotted on the east side or the west side, and sometimes if they didn't have too big a cut they were mixed up; is that right.



A No.

Q That was B alley?

A At B alley.

Q Now about N yard; in N yard how do they do switching, Mr. Shepp?

A At Calgary?

Q N yard?

A In the N yard there is a switching tail that continues on straight with the lead. Before the switching tail was built it was the practice in my experience to use the main line when switching was undertaken in N yard. However, later on instructions were issued because of the interlock switches on the main line and the frequent use of sand by engine crews when switching over this switch, that switching by using the main line was prohibited and therefore the only other route that could be taken was the north wye, which has been referred to before as being practical to use.

Q Would you mind speaking up?

A However, when instructions went out that the main line could not be used the yard foremen strenuously objected to the use of the north wye because they had to send a man back around the curve with the engineer so he could be in position to relay signals to the engineer and therefore they could not perform their switching efficiently.



It resulted in management building the switching tail and if any switching now, as I understand, of any extent is to be carried out the switching tail is cleared of cars and is used.

Q My friend also asked you a number of questions, Mr. Shepp, dealing with yardmen on cars. Would you give to the Commission a comparison of the hazards of a yardman riding on cars compared with those of a fireman taking on water and coal. In your supervisory capacity have you ever considered those two different aspects of railroad hazards?

A Yes, I have.

Q What in your opinion is the most hazardous, a yardman riding on cars or a fireman taking on water or coal?

A The fireman taking on water and coal by far.

Q Why?

A Because the records so indicate, those that I have observed during my supervision.

Q Exhibit 50 which was shown to you by my friend is a file and I notice on top of page 67 there is a designation "Injured when taking coal and water, 16". That was on the Canadian Pacific for the year 1955, is that correct?

A That is correct, yes.

MR. SINCLAIR: Mr. Lewis, you put the figures 5 and 3 on the record, but I think you were wrong. It should have been 5 and 4. You were reading them wrongly and you left one out; I think





it is 5 and 4. The two you were referring to were 5 and 4, not 5 and 3.

BY MR. SINCLAIR:

Q Taking falling off top of cars, that was 5?

A Yes.

Q That is 5, falling off top of cars, and sixteen injured when taking on coal and water. Would there be yardmen in 1955 on tops of cars for longer periods than there would be firemen or other people taking on water and coal, in your opinion?

A Oh, yes, by many more. There are three yardmen to one fireman, and during the course of their duties they would be on and off cars many more times than a fireman would be taking on coal or water.

Q How do these men taking on coal or water get injured, Mr. Shepp?

A Well, sometimes the coal chute overflows, they do not shut it off, and the result is they slip off when the coal heaps up. Sometimes the water spout does not shut off and they try to push it up out of the way. In some cases the water spout swivels and when they try to push the spout out of the way by using one of the long pokers, sometimes it slips off and they slip off the tender.

Those are the ways in which sometimes they are injured, or they forget to close the manhole on the tender and trip over it. Those are the ways a fireman becomes injured.



-- Following recess.

MR. SINCLAIR: With your permission, sir, yesterday afternoon you asked Mr. Shepp certain questions about a movement in which an engine was pulling cars, we will say, coming out of Track 1 to Track 12 and going out of a yard track on to a leader ladder and moving down there to shove into, say, Track 12. Now, Mr. Shepp, as my note has it, you answered the Chairman that that was taken care of in so far as others, possibly coming out on to the lead were concerned, by co-operation between crews -- ground crews. That may be not completely accurate, but I think that was the sense.

BY MR. SINCLAIR:

Q Do you remember that part of your testimony, Mr. Shepp?

A Yes. I said ground crews protect each other.

Q Thinking of a move like that, and looking at Exhibit 52, just say we had an engine headed to the right and it came out of Track 8 and was going to go down and push back into Track 1, move down the lead again into Track 8, couple up, and was going to bring a batch down and back them into Track 1. And we will say there is another engine working on Track 4, or which was in Track 4. Would you just explain to the Commission how that would be done, Mr. Shepp, looking at Exhibit 52?

A Well, it would depend on which end the movement was being made on; in other words, which



way the engine was headed.

Q I had it headed to the right on the plan, the engine ahead, coming out on to the lead.

MR. MUNDELL: On the right end of the yard?

MR. SINCLAIR: The right end of the yard.

THE CHAIRMAN: Let us put the points of the compass on Exhibit 52. North at the top, south, east and west.

MR. SINCLAIR: Right. Would you do that on your exhibit? North at the top, south at the bottom, east to the right, west to the left. All right, we have this engine headed east.

THE CHAIRMAN: On yard track 8?

MR. SINCLAIR: Headed east on yard track 8.

THE CHAIRMAN: Hauling something?

MR. SINCLAIR: Yes. It is coupled up to a batch and it is going to pull it down and push it into Track 1. They are coupled up on 8 and they are going to pull down and push into Track 1.

THE WITNESS: The engineer would receive a signal to go ahead.

BY MR. SINCLAIR:

Q From whom?

A From the engine follower who would be on the lead at the switch, or on the front of the engine.



THE CHAIRMAN: I don't see any switch on No. 8.

THE WITNESS: Well, there are only six switches shown here.

THE CHAIRMAN: But there might be a switch there?

THE WITNESS: There might be a switch on No. 8, and the engine follower would ride the front of the engine until the engine reached the point on the switching lead where he had a view straight ahead.

THE CHAIRMAN: Do you mean to the east or to the west?

THE WITNESS: To the east. And a stop signal would be given to him when the last car cleared Track No. 1, and he would receive a back-up signal and back the cars into Track No. 1.

THE CHAIRMAN: I thought we were going into Track 4.

MR. SINCLAIR: I was out of Track 8 pushing into Track 1.

THE CHAIRMAN: There is supposed to be another engine on Track 4.

THE WITNESS: In that situation the other engine coming down Track No. 4 would stop clear of the lead and he would not go out to that lead until the foreman had a consultation with the foreman who was working on Track 8 as to which one of them was going to use the lead.

MR. SINCLAIR: Now, Mr. Shepp, is there





any rule that governs the taking over of a lead when one engine has it in possession?

THE WITNESS: The rule specifies that --

BY MR. SINCLAIR:

Q What rule is that, Mr. Shepp?

A Rule 104.

Q That is at page 61 of the exhibit of the Uniform Code.

THE CHAIRMAN: Exhibit 27.

BY MR. SINCLAIR:

Q Exhibit 27, page 61. Now which paragraph, Mr. Shepp -- there are quite a number of paragraphs before you -- which paragraph refers to that? Paragraph 7, isn't it? Rule 104 is on page 61.

A Yes, paragraph 7, and it reads:

"A train or engine must not foul a track until switches connected with the movement are properly lined or, in the case of spring switches, the conflicting road is seen to be clear."

So, under the provisions of that rule, an engine on Track 4 must not foul the track until the switch connected with the movement is properly lined, in the first place, and when another crew is working in that area, if he does line the switch and come out, he must arrange provision to stop the other engine which is pulling cars out of Track 8, on the example that we have



been given. I might add to that that if the engineer can see from his position, then a stop signal could be given to him from that point, from Track 4.

Q If an engineer could see?

A If an engineer standing on Track 8, preparing to pull out, could see the other engine moving out of Track 4, then the ground crew on that engine protecting their movement against the other could give a stop signal to the engineer on Track 8.

Q Now, on the movement that you have described out of Track 8 pushing back into Track 1, you have the engine follower going down on the head of the engine?

A That is right.

Q On the point of the engine. Now, does the engine follower on every movement forward like that ride the point?

A Only up to a point on the lead where the engineer has an unrestricted view ahead and where there are no other conflicting movements in sight of crossovers.

Q Take this example, Mr. Shepp, if you will. We are on Track No. 8 and we are coupled. We have a batch of maybe 30 cars on Track 8, and coupled up. When they are coupling up, where would the three ground crew be?

A In that particular instance where the track is straight the engine follower should remain at



the switch so that he is in a position to make the observation when his engine is ready to go out, and give the proper signal.

Q So that coupled up on a track such as that, there would only be --

F-2 A Two men -- the field man and the foreman.

Q On a move on which, because of length and curvature, the three ground crew were back -- do you have that kind?

A Yes, we do.

Q And they were all coupled up, how would the signal to proceed be given, and from where, and when?

A It would be given from the rear of the movement. In the case you have described in which, I think, there were 30 cars, it would be given from the 30th car and relayed to the engineer.

Q And he would be on the 30th car at the back of the movement?

A Likely, both the yard foreman and the field man would be back there.



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Q Where would the engine follower be?

A He would be -- he might be towards the centre.  
He might be on the fifteenth car.

Q And would he give the proceed signal from there?

A He would give <sup>the</sup> proceed signal.

Q And what would the engineer do?

A The engineer would proceed to the fouling point  
of the lead and if he was not able to see --

MR. LEWIS: What is the fouling point?

THE CHAIRMAN: That is the intersection --

MR. LEWIS: Of another track.

THE CHAIRMAN: -- between track 8 and the lead.

THE WITNESS: That is correct.

BY MR. SINCLAIR:

Q He would proceed to the fouling point of the lead,  
and you were saying --

A And if he was not in a position to see the condition  
of the lead ahead of his movement he would stop to  
clear and wait for the engine follower to come down  
and set the switch if it was not set and give him  
a signal. The engine follower would make the  
observation.

Q In this discussion we have had the engine pointed  
to the east. If the engine was pointed to the  
west on the same kind of move would that make any  
difference? That would be coming out of track 8  
with the diesel cab first.

THE CHAIRMAN: Coming out of 8 with what?

MR. SINCLAIR: With the diesel cab first.

I had him coming out before engine first. This is coming





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out of 8 cab first.

THE CHAIRMAN: Still coming out of 8 going east.

MR. SINCLAIR: Going east, yes, but I am suggesting to the witness that he describe the move coming out of 8 cab first this time instead of engine first, doing the same move again.

HON. MR. McLAURIN: You have just got the locomotive --

MR. SINCLAIR: Turned around.

THE WITNESS: Then the same situation would obtain and with the much improved view of the engineer he would be able to see the condition of the lead and the only reason then for stopping to clear would be if the switch were not properly set.

MR. SINCLAIR: That is all.

MR. MUNDELL: I have one or two questions, Mr. Chairman, if I may.

BY MR. MUNDELL:

Q Mr. Shepp, as I understand the position that the company is taking, and dealing only for the moment with yard operations, it is that the fireman is no longer necessary, is expensive and should be dispensed with. In answer to that the proposition is put forward that he is necessary, as I understand it, for two possible reasons. One is for safety and the other argument that we have heard put forward so far is as a mechanical helper, as a helper to the engineer on mechanical work. I should like to explore your attitude on



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these two points, if I may. As I understand the argument put forward and your cross-examination and your evidence on the question of safety, there are four possible ways as I see it in which the fireman is said to contribute towards the safety of the operation. The first one, as I understand it, is that he maintains a lookout and may prevent accidents arising where otherwise they would occur. I am putting it this way because I want to draw a distinction between his function as a lookout, and the second one is as a signal passer, which I understand is a rather different thing. The third one is it would avoid unnecessary stops, which may be hazardous, if there is a fireman because he can reset the devices, and the fourth one is that he is a stand-by in case of a collapse by the engineer. I should like to explore these four possibilities and have your attitude on them for the benefit of the Commission.

First, as a lookout, we had an instance given earlier where by reason of the fact that there was a fireman on the locomotive an individual was slightly injured where he might easily have been killed? I think that is the correct situation?

A That is right, yes.

Q If the fireman had not been there in that case that man would have been killed? I mean assuming that it would have been that serious. He could have been killed? Put it that way. Is that right?



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- A In the circumstances and the movement that was being made at the time and the fact that the fireman was there, unquestionably he could have been killed if the fireman had not been there.
- Q Right, and there may be other instances of that, I suppose. There may be. I suppose the ones where nothing happens are not recorded? Is that right?
- A Are you speaking of the presence of a fireman in the cab? I assume that is what you are speaking of.
- Q What I am suggesting is that the presence of the fireman may have in other cases, avoided somebody being killed -- may have, I am not saying it has but it may have?
- A Oh yes, I believe I said before that in connection with all the other members his proportion I would say would be about equal.
- Q If that is the case and individuals' lives are saved by the presence of a fireman, how do you justify suggesting that he be taken off locomotives? Are you prepared to accept the possibility of people being killed?
- A No, that is why I said as long as and while a fireman is being employed on a diesel yard switcher. Now, in the case that you drew to attention where there was injury, if the fireman had not been on that engine one of the members of the ground crew would have been riding the front. If the ground crew members were not



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riding on the front, then it is the responsibility of the engineer to stop if he cannot see.

Q As I recollect, this was a member of the ground crew. This was a man who presumably would have been looking out for himself?

A No, there were two other members of the ground crew that were on that engine that struck him.

Q I should like to get this very clear.

THE CHAIRMAN: I think you can only do that if you go back over the particulars of that occurrence, which the witness has already gone through.

MR. MUNDELL: I am coming to a rather more general point, if I may. The point I am really getting at is this --

THE CHAIRMAN: I appreciate that. You go ahead, but I say I do not think you can do it adequately without taking the witness over what the facts were, which he has already given.

MR. MUNDELL: In that particular case. I am really not worried about the particular case. I am just suggesting to the witness the possibility that people may be killed if firemen are taken off locomotives and what is the company's attitude towards that possibility. That is really what I am asking.

THE CHAIRMAN: That was not the question, but you go ahead. If that is the question, what is the answer?

BY MR. MUNDELL:

Q What is your justification for taking the fireman off the locomotive if he has saved lives to date?





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A Our justification is that on steam service the lookout function of the fireman was only spasmodic and --

Q I am sorry, I do not like to interrupt you, Mr. Shepp, but I do not think you are answering my question which is that if firemen have saved lives to date why do you suggest that they should be removed? Is it that you do not care about lives?

Mr. SINCLAIR: Oh no. With all respect to Mr. Mundell and to you, Mr. Chairman, I recognize the duty of Commission counsel and I think he should test the witness just as hard as he can and just as forcefully as he can, as Mr. Lewis should do, but I do not think that is the way to do so. He is asking a very general question. The witness is trying his best to answer and then he clips him off and says, "Please answer my question". Obviously this witness is a switchman and he does not think or move as fast as my friend.

THE CHAIRMAN: Well, you can have the witness answer a question like that if you think it is of assistance. An affirmative answer that the company does not care about lives certainly would not be an answer that anybody sitting here as we are would give any effect to at all. But I would think that from a practical point of view the objection to a general question of that kind is that the answer would not be helpful from that standpoint, and it is all related. The proposal to remove is related to the contention of



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the company, as I understand it, that the fireman has become unnecessary.

There are certain situations, certain times in connection with movements which may make that proposition, in circumstances when there are other people there to see as well as the fireman, obviously a good proposition for that length of time. In other cases it may be obviously bad. I am expressing no opinion, but I think that the only kind of evidence or opinion that this witness or any other witness can give is related more particularly to the times and occasions when he says a fireman is necessary or unnecessary or the fireman has saved life or has not.

In this particular example to which you directed his attention and then departed from it to ask a general question he says, as I understand his evidence -- it will have to be read carefully again -- that it happened because someone other than the fireman was not where he should be to have seen that that did not occur. I may be wrong in that but I understand that is the contention.

I am merely discussing the matter with you at this length because at this stage we have no opinion on this matter at all. As to the company's attitude toward saving life or not saving life, if you can establish that the attitude of the company is a perfectly callous one and they do not care whether lives are lost or not,



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that, of course, would certainly enter into our considerations, but as I said before a general answer affirmatively to that kind of question would not be helpful and nobody would expect that we could give any consideration to it. That is a pretty general and hazy discussion, Mr. Mundell.

MR. MUNDELL: I am sorry, sir. I did not expect an affirmative answer, and I had thought that my next question would be, how do you justify it if the risk apparently may be increased, the possibility of some accident occurring that would not occur with the fireman there? I thought that possibly I might get a slightly different explanation. That is what I had in mind.

THE CHAIRMAN: Well, you go ahead with it. I am merely pointing out to you that you are taking in a lot of territory in that kind of question.

BY MR. MUNDELL:

Q Mr. Shepp, I will put it this way. I assume that naturally the company is concerned about life, but would you say that the risk of accidents may be increased by the absence of the fireman, that there may be accidents which would occur when the fireman is not there that would not occur if the fireman were there? Is that so? Would you agree with that?



A No, I can't say conscientiously that I would agree with it. I would say that the company is certainly very, very safety conscious. I don't want anyone to get the impression that safety -- I have mentioned it before in my evidence -- safety is our first consideration, and I certainly don't feel that removal of firemen on a yard diesel will increase the general conditions of accidents in railway yards.

Q I would like to test that answer, if I may. You agree that at least one accident in the past was prevented or minimized by the presence of the firemen? You have already agreed to that. Consequently, you have said there might be others. Why do you say that in the future there might not be circumstances, if there was a fireman there -- bear in mind, that the example we had showed that there was an error on the part of one of the ground crew. Why do you say the absence of the fireman in the future would not increase the possibility of an accident?

A Why I made that statement was that, as I stated before, the ground crew on that engine making that movement were not in position on the front of the engine; that is one of them, and my reason for saying that also is the fact that because we have had a fireman on diesel yard engines ever since railways began to operate, the crews associated with our yard movements have expected that a fireman,





when he is in position to do so, would take the necessary and appropriate steps if a situation arose. In this instance that you refer to the fireman was on the engine and he was in position to take the steps that he did take, and by doing so he minimized what might have been a serious injury.

Q Correct me if I am wrong as to my recollection of the circumstance, but in that case, as I remember it, the injured man stepped back into the path of the locomotive. That is right, is it?

A That is right.

Q He was not relying on the presence of the fireman; he was not paying any attention?

A That is correct.

Q Might not this happen in the future where some members of the ground crew make an error, the fireman may be able to minimize, or prevent accidents?

A No; I must again reiterate on yard movements, it <sup>been</sup> has/pointed out in evidence here, that, and our rules provide, cars can be switched to run freely in yards without protection. The rule to which I refer I think it might be well to enter into the record at this point is --

Q What rule is that?

A I am trying to find the number.

Q Would that be page 5?

A No; I am looking for the except in yards where a man must ride the leading --



BY MR. SINCLAIR:

Q 103?

A 103 is it.

Q Page 58?

A Page 58. The rule reads:

"When cars are pushed by an engine --  
(except when switching and making up  
trains in yards where there are no public  
crossings at grade, or where there are  
public crossings at grade adequately  
protected by gates or otherwise) a  
member of the crew must be on the  
leading car and in a position from which  
signals necessary to the movement can  
be properly given."

The point that I am making there is the exception  
when switching and making up trains in yards, and  
the question you asked me is whether someone could  
do that, and my answer is that cars are permitted  
under this rule to be switched in various tracks,  
run freely unattended. Therefore, such a car  
unattended anyone could, if they were not alert,  
get struck by a car like that by stepping back,  
the same as they could with an engine.

Q I am not quite sure that that answers my question.  
I suppose I could summarize my question in this  
way. Do I understand your attitude to be, notwith-  
standing that yard crews may make errors, and  
notwithstanding that we have had one example of  
where a fireman minimized an accident through



his presence, do I understand you to say that your position is the removal of the firemen does not increase the risk of accident in yards to any extent at all; is that right?

A That is what I said, it does not increase the risk.

Q Come now to the matter of a look-out. I now come to the question of the firemen as a standby for the engineer in case of say collapse or seizure, or something of that sort. My recollection of your evidence is that you have not encountered this situation. I think you said that.

MR. SINCLAIR: He had one.

BY MR. MUNDELL:

Q You had one?

A Yes.

Q It has occurred once, then. Suppose a yard engine is out running free in a yard, running light, I think is the term, and it is going along at a fair rate of speed. I think they can go up to twenty miles an hour?

A They can go twenty miles an hour, yes.

Q And the engineer collapses, and he is the only man in the cab. There is a possibility of an accident occurring there, is there not?

A There would be the ground crew on the engine if he was running light.

BY THE CHAIRMAN:

Q I am sorry; I did not get that.

A There would be the ground crew on the engine if he



were running light. They may not be in the cab, but they would be on the engine.

BY MR. MUNDELL:

Q It is possible they might not notice it for a minute or two that the engineer collapsed?

A It is possible, but they would certainly be probably going past the place they wanted to stop and they would be concerned about his not stopping at their signal.

Q Would you not say it is possible that an accident might occur as a result of that?

A Oh, I would not say that it would not under circumstances like that. Where they are going 20 miles an hour he would have to be on a main track.

Q Or, take the case of an engine that is coming up to, pushing cars to be coupled and the engineer collapses 100 feet away. There is the possibility that he might run smack into the other cars?

A There is that possibility; there could be a heavy coupling made, yes.

Q And it might be that if there were somebody coupling cars further down he might be injured; right?

A I would not, no. I do not think there would be any injury in these circumstances because men are prohibited from getting in between cars without protection.

Q May I put it in a more general way. Are you saying that the collapse of an engineer in yard operations could never result in an injury to anybody?





- A No, I am not saying that but I say that it is pretty hard for me to try to even visualize a situation -- I am doing my best, and all that I can say that would happen under those circumstances would be probably some damage to equipment.
- Q May I turn my question around, then. You say there is a possibility that people might be injured under those circumstances; possibility is all I am suggesting.
- A Well, I am certainly not going so far as to say that there is absolutely no possibility; there is a slight possibility that people could become injured in such circumstances.
- Q So that to the extent that a collapse of an engineer, or a seizure of that sort occurring, and to the extent that it may likely happen, there might be a small increase in the risk in the yard? Is that correct?
- A The increase in risk would be very, very slight.
- Q But some; slight, but some?
- A There is a degree of some, yes.
- Q How do you justify accepting the increase in risk?
- A Well, it is a question of -- the present operation is not changing,<sup>in</sup> the present operation with respect to even operating with the firemen there is always the possibility of an engineer taking an attack like that at the moment that he is receiving a stop signal where the fireman would not have time, or anyone,



to avoid the accident.

Q You are saying in effect that this is just one of the risks of life?

A It is just one of the risks of life.

Q I have only one other matter that I would like to come to and that is in connection with the fireman at the moment as a signal passer, which he apparently does on some occasions. You made the point that he was not as efficient as a signal passer as a member of the ground crew because the ground crew ~~did~~ it -- I think we got into a little discussion on this -- simultaneously. Why can't the fireman do it simultaneously?

THE CHAIRMAN: I think the witness said the signal passed between the fireman and the engineer under these circumstances orally.

MR. MUNDELL: My point is, if the company recognized the fireman --

THE CHAIRMAN: I am only pointing out what the witness said, and he can correct me. Is that what you said?

THE WITNESS: That is correct. In most cases the signals are made orally, and I said, too, I think, that the fireman may have his head out of the window, and it would --

BY THE CHAIRMAN:

Q The engineer?

A I mean the engineer may have his head out of the window and there is that extra co-ordination which is delivered to him orally in some cases. Now,



there may be cases where he could give the signal by hand.

BY MR. MUNDELL:

Q Suppose you had --

THE CHAIRMAN: Mr. Mundell, I do not intend to interrupt you; I only want you to put to the witness accurately what he said. Put your question.

MR. MUNDELL: I actually was not pursuing anything he said earlier beyond the fact that he made the suggestion that the fireman was not as efficient a signal passer as the man on the ground. He said that was done orally, but my point is, if the fireman were recognized as a signal passer why can he not pass the signal as efficiently as the man on the ground. That is what I was coming to.

THE CHAIRMAN: Do not ask me, ask the witness.

BY MR. MUNDELL:

Q That is the question I was coming to. Why could the fireman not be as efficient as the third man to relay signals?

A Because I have stated before that signal passing was not a primary function of the fireman, and if signal passing was to become a function of the fireman then necessarily that would have to be included in his initial training.



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Featherstone

Q I have one other thing I would like to mention.  
I take it that the avoidance of unnecessary  
stops that a fireman might prevent by resetting  
devices, that that is not important in the yard?

A No, it is not important in the yard.

MR. MUNDELL: That is all I have, sir.

BY MR. HUGHES:

Q Witness, can you tell me where the train crew  
on a passenger train is positioned when it is  
en route?

A It is dependent on the number of the train crew.  
For example, on a main line passenger train  
there is a baggage man, two trainmen and a  
conductor besides the engine crew. The baggage  
man rides in the baggage car, which is near  
the front of the train. The head trainman  
rides in the day coach along with the conductor,  
and the rear trainman rides in the last car on  
the train.

Q Evidence was given here by one witness to the  
effect that if a head brakeman were relied upon  
as a lookout on a freight train that his lookout  
could not be constant for the reason he had to  
inspect the train to the rear. Do you recall  
evidence to that effect?

A Yes, I do.

Q Can you tell me whether or not there is anybody





in the train crew on a passenger train who performs the same duties with respect to viewing the train from the same forward position?

A Yes. The head trainman at appropriate places looks along the train by means of opening the vestibule door on the front of the train, and the rear trainman also from the rear occasionally opens a half-vestibule door and looks along the portion of the train as it runs through a curve.

Q Can you tell me, witness, how frequently a head train brakeman will be required to look back to inspect a train?

MR. SINCLAIR: You are on the road now. I am not trying to stop this at all, but Mr. Shepp is a yardman and we are going to call road witnesses.

THE CHAIRMAN: We have been on the road before with this witness.

MR. SINCLAIR: I quite agree. I was just trying to get to the end of it.

MR. LEWIS: There have been some by-paths.

MR. SINCLAIR: I think you took him down quite a few.

THE WITNESS: I did not get your question.

MR. HUGHES: Mr. Reporter, would you read that question please?

THE REPORTER (Reads): "Can you tell



"me, witness, how frequently a head train brakeman will be required to look back to inspect a train?"

THE WITNESS: He will be required to look back at every opportunity that he has where he can see the train rounding a curve. I would say that he does that maybe every ten minutes, anyway, and he glances back.

BY MR. HUGHES:

Q What you say is that it depends upon the type of curve or the curvature of the track he is passing over?

BY MR. LEWIS:

Q I have just a few short questions, and how long it will take I do not know. With regard to Rule 26, Mr. Shepp, the provision for the use of the blue flag. You were not suggesting, were you, that every time a carman or maintainer has anything to do with an engine or a car a blue signal protection is given?

A If a carman has to get underneath a car to make repairs within the yard he certainly does arrange his blue flag protection, although he can work on the side of a train or on the side of a car by maintaining proper vigilance without a blue flag.

Q Your answer to my question is that it is not every time that a carman works around a car or an engine that a blue signal occurs?

A I would not say that. If a carman does work



without a blue flag being there I feel sure that he has arranged other means of protection.

Q You feel sure?

A Yes.

Q What exactly does that mean?

A That means that that man may have contact with the yard master by telephoning to flag the other end of the track so that no movement is made. Protections like that can be arranged.

Q Mr. Shepp, can I get a very simple answer to a simple question. Is it your evidence to this Commission that every time a carman works around an engine or a car in a yard he either has a blue signal as provided by Rule 26 or he makes special arrangements with the yardmaster or someone else?

A That is right, yes.

Q You therefore say that if a carman inspects or checks the oil boxes in a car or examines the wheels or the running gear on box cars, that in all those things --

A No, I did not say that.

Q You are now qualifying what you said?

A I said if a carman had work to do underneath a car or was inspecting a car where he is subject to injury if the car is moved, he protects himself with Rule 26, or in some manner such as I have described, by flagging.

Q A carman may have work around a car, not underneath it?

A That is right, and he does not protect himself



with a blue flag under such circumstances.

Q He is in danger of being injured, is he not, not only by the car he is working around but by other cars or engines that are moving around where he is?

A He is not subject to any danger under those circumstances unless he becomes careless.

Q As I suggested to you earlier in my cross-examination some time ago, most accidents occur because people are inclined to be careless from time to time, is that not so?

A That is absolutely right; in all walks of life, that is right.

BY THE CHAIRMAN:

Q These other things that counsel has just suggested to you where a workman may be working around a car and where you say he is not liable to injury unless he is careless, what have you in mind? You must remember we are not familiar with this work.

A The only thing that could possibly happen to him would be that if he stepped back and struck a movement on an adjacent track.

Q What kind of work would he be engaged in that he would not protect himself in either of the two ways you have mentioned?

A Well, he would be examining the under-portion of a train by walking alongside the train in between the tracks. He would be lifting the journal boxes





which are the bearings that freight cars run on. They have brasses in there and dope and so on. He would lift and examine them and if they are hot he would place a repair card on the car.

Q Does he hit the wheel with a hammer?

A He hits the wheel with a hammer to test the wheel. Things like that. If he sees something underneath in connection with the air, then he would make an appropriate record to have it repaired.

BY MR. LEWIS:

Q Just to have it on the record, on that point am I correct -- you referred the other day to car inspectors as well as carmen; they are the same people, I take it?

A That is right.

Q Would it be generally correct to say that the function of inspecting cars on a train, the oil boxes and the things you have mentioned, replacing brake shoes and that sort of thing; he would not take the protective measures you suggest in those cases, it is only when he has a repair job to do on the car that he would take those protective measures; is that right?

A That is right. Generally speaking, that is right.

Q Now, these two moves that Mr. Sinclair took you through on Exhibit 52. We were discussing an engine coming out of Track 8 with another engine or another train coming out of Track 4 in the same direction, I suppose east, as our engine



was taking that direction when it was coming out of Track 8.

A That is right.

Q Am I right in suggesting to you that usually, not merely often but usually, there is switching at both ends of a yard?

A That is right.

Q You might have switching down on the west of that lead or ladder track going into or coming out of the tracks that come off there at the same time you had switching down on the east end of the ladder track?

A That is right.

Q It is not at all infrequent, is it, that one of the cars in a train being switched on the west side -- we had our movement on the east side -- might come loose and just run down?

A There is always that possibility in yard service, yes.

Q It happens quite frequently, does it not?

A Not in the circumstances that you have described. I believe I gave you 19 incidents which would give you a pretty good idea how sideswipes occur, and they are usually as a result of carelessness on the part of the ground crew in operating the cars without protecting them.

Q It does happen quite frequently, does it not, that you get an unattended car running down a track; does it not?

A No, I cannot agree to that because yard crews



know the territory in which they are working, they know the gravitation in the ~~work~~<sup>track</sup>; they know that if they kick a car into a west end track where the gravitation is eastward that there must be someone on that car to ~~clear~~<sup>hold</sup> it with a hand brake.

BY THE CHAIRMAN:

Q But you do say that there are cases of cars running free in a yard which may cause trouble?

A Yes, they run free into the tracks, but they are unable to -- they are not in contact with other cars in that yard.

Q That is what you are being asked?

A As I understood the question that I am asked, it was suggested that a car would be kicked into the west end, one of these tracks, a clear track, and it would run clean through the track and out the other end. Was that your question?

MR. LEWIS: I did not put it that way, I was just asking --

MR. SINCLAIR: With all due respect --

Mr. LEWIS: The witness said "kicked".

MR. SINCLAIR: You said "running free".

THE WITNESS: I understood that is what you meant.

BY MR. LEWIS:

Q Suppose we take it that way for the moment. All I am asking is -- when I said "running free" you took it to mean "kicked" -- I should have realized



that it was running free because it was kicked or for some other reason. What I am asking is this, as I said earlier: Quite frequently -- perhaps I can get an answer by not putting it so widely -- if it does happen that a car will run along a track from the west unattended, for whatever reason it may be?

A Yes, it does so happen.

Q When a car does run unattended your statement about crews protecting themselves against each other would have no relevance, would it?

A Oh, yes, it would. That is an entirely different matter. When a car like that, as you described it -- it may run into the centre of a movement. For example, when we described the movement of 30 cars from Track 8, and if a car was running free to Track 6, for example, after half the cars out of Track 8 had been pulled to the lead, then that car would run right into the centre of the train and nobody would be in position to do anything and you might have a side swipe.

--- The Commission adjourned at 12.45 p.m. until 2.15 p.m.





Thursday,  
March 14, 1957

AFTERNOON SESSION

---The Commission resumed at 2.15 p.m.

JOHN SHEPP, recalled,

BY MR. LEWIS:

- Q. Mr. Shepp, in answer to a question by Mr. Mundell you said, if I remember correctly, that if signal passing was to be a duty of the fireman it would have to be part of his initial training. Is that what you said, do you remember?
- A. That is right. That is what I said.
- Q. Were you suggesting to the Commission that it is not now part of the fireman's training?
- A. No, I was not suggesting that it is not now a part, as it applies to his general service as a fireman, but what I had reference to was that in so many cases in yard service, as is well known, firemen are promoted from the ranks of wipers, and it is quite often that in yard service an engineer will go out with a wiper who has very little service, particularly on week ends or in the holiday season when the regular men lay off.

So in those circumstances, if a ground crew were to depend entirely on the signal exchange from the fireman who has had very little experience, I would consider that there might be a little mixup. That is the reason why I said



that particular attention would have to be paid under those circumstances.

Q. I will come back to that in a moment if I may, Mr. Shepp. I would like to follow up what you have just referred to, but for the record it is true, isn't it, that the fireman writes a B examination on the Rule Book, which includes those parts of the Rule Book dealing with both hand signals and fixed signals, both day and night?

A. That is correct. He does.

Q. Isn't it also correct that the fireman, when he is a student fireman and goes on his student trips, has to be passed by the engineer, and that one of the elements which the engineer looks for is the fireman's proficiency in understanding and transmitting signals? Isn't that right?

A. That is only right to a certain degree because engineers will take a fireman out on a diesel yard engine who has not had very much service and has not been fully qualified with respect to the interpretation of the signals.

Q. But if he is being passed through the various stages -- I will come back to that, as I said to you before, -- but as this fireman is passed through his training, the engineer, before he passes him, will look on his proficiency in understanding passing signals. Is that not right?

A. Yes, but I would like to make this point clear. As I have stated many times before, the primary



function of a fireman is not for the purpose of passing signals.

MR. LEWIS: Mr. Chairman, throughout my cross-examination of this witness I think I have been exercising a patience which I must admit I am not usually accustomed to doing. Perhaps that is a comment on myself rather than on the witness, but we have heard this several times from the witness. I was asking him a simple question dealing with the training of the firemen.

BY THE CHAIRMAN:

- Q. Yes. I think, Mr. Shepp, you were being asked particularly with regard to the fireman with regard to signals. We quite understand, as you have already said, that he has other duties and what you call his primary responsibility. But it is on the matter of signals that you are being asked about now.
- A. The way I wanted to express it, sir, has a very, very definite effect on the question that is being asked me, and I would like the opportunity to clarify that one point.
- Q. You must have that opportunity. Go on.
- A. What I was saying was that a fireman may get on quite a number of assignments in yard service where not one signal is exchanged through the fireman. I will go further than that and say that it is possible for him to work in a place like Calgary, in my experience, for a whole year without having to exchange a signal. So my



point is that a fireman has not the same coordination of signals as a yard crew has or a ground crew because they are doing it every day and every hour.

BY MR. LEWIS:

- Q. Let me ask you this. You know, do you, the firemen, say, in the Vancouver Terminal? You have a pretty good idea of them generally?
- A. Yes, I have a good idea of them generally, the work that they do, yes.
- Q. Would you inform the Commission whether in your knowledge -- if you don't know it just say so; it is not a thing one can guess at -- there are any firemen now employed in the Vancouver Terminal who are not proficient in understanding and transmitting signals?
- A. I don't know that.
- Q. Now, Mr. Shepp, about this engineer in a yard service taking on green firemen with him who may not have had much experience, is there no case of a member of the ground crew being green?
- A. There are many cases where a member of the ground crew is green.
- Q. Yes. As a matter of fact, Mr. Shepp, the turnover among the employees in the yard ground crews is very much greater than the turnover among firemen or helpers. Is that not true?
- A. That is, I believe, correct. Yes.
- Q. So you are just as likely to have a yardman in the crew of three who is green and incompetent





in the matter of understanding signals as you are to have a green fireman. Isn't that right?

A. That is right, but a yard foreman has the opportunity of placing his helpers in such a position that he can assure himself of the safety of the movement, and generally he keeps a man who is not experienced with him closely so that he gets the benefit of the foreman's experience in his training, particularly in the passing of signals.

Q. And, Mr. Shepp, it is your suggestion, is it, that this untrained and green yardman is able to participate in this simultaneous signal passing you made so much of the other day?

A. I must again emphasize that where such a condition obtains it is possible that the type of the work or the general program, with the experienced crews, might be reduced somewhat, taking into consideration that there is an inexperienced yardman on the crew.

Q. Now, let us take this reference that Mr. Sinclair pointed out to you in Exhibit 50 at pages 66 and 67. He pointed out to you that the number injured when taking coal or water is shown there to be 16 for the C.P.R.

A. That is correct.

Q. They would not necessarily all be firemen, would they, Mr. Shepp?

A. I don't know whether they are all firemen. It is possible there may be some shop employees included in that figure.



Q. As a matter of fact, in the yard, are my instructions right or wrong that the coal or water would be taken on manually by shop people rather than by the firemen?

A. That is so with respect to coal, but not so with water in all cases. In the middle of the shift, if water is required the fireman generally takes it.

Q. But with respect to coal it would be the shop men in almost all cases?

A. In almost all cases it would be the shop men.

MR. LEWIS: That is all.

BY THE CHAIRMAN:

Q. Mr. Shepp, you may have already given us some of this information but I am not sure that you have. I cannot retain it all in one hearing. As I recall it, shunting operations in yards are up to eight miles an hour. Is that right?

A. No, actually shunting operations are between one to six miles an hour.

Q. One to six?

A. Yes.

Q. Well, then, under what circumstances would you have equipment moving in a yard beyond six miles an hour?

A. If you had a draft of cars to go a considerable distance where the main track would be used, the same track that the passenger trains use, under such circumstances, if it is equipped with block signals, then the movement could reach



20 miles an hour. But that would just be a direct movement and not any actual switching.

Q. And if the yard were not equipped with block signals what would the speed be?

A. Then it would be governed by the rule of stopping within half the distance that can be seen.

Q. The speed must not be more than would enable the operator to bring his locomotive to a stop within half the distance he can see?

A. That is correct.

Q. Is that a rule that is in the Rule Book?

A. Yes, it is, sir.

Q. Which one is that?

A. Rule 93, I believe.

Q. Rule 93?

A. Yes.

MR. SINCLAIR: Mr. Chairman, the definition of yard speed is to be found in the last paragraph on page 9 of Exhibit 27.

THE WITNESS: Yes, it is on page 9, the last paragraph.

THE CHAIRMAN: Yes, I see it.

MR. SINCLAIR: Rule 93, which is on page 51 of Exhibit 27, tells how to apply it. The definition is to be found on page 9, but Rule 93 is a yard rule which tells you how to apply it.

THE CHAIRMAN: What does the relevant part of it say?

MR. SINCLAIR: It is the second paragraph of Rule 93, and it reads:



"Third class, fourth class, extra trains and engines must move within yard limits at yard speed unless the main track is known to be clear."

THE CHAIRMAN: Thank you.

MR. SINCLAIR: There is also a note to Rule 93, which reads:

"Where automatic block signal system rules are in effect, "known to be clear" includes when track is known to be clear by signal indication."

That is right below the second paragraph of Rule 93, which I read. Then there is Rule 93a, which is the single track rule. Then Rule 105 at page 64 reads:

"Unless otherwise provided, trains or engines using other than a main track must proceed at yard speed."

THE CHAIRMAN: Thank you.

BY THE CHAIRMAN:

Q. As I recall the example that you were telling us about in answering Mr. Sinclair, looking at Exhibit 52 where the yard engine is standing on the yard track No. 8 with the cab at the rear of the engine, pulling some cars out. I think one of the illustrations you gave was of some thirty cars in what was being pulled. Am I right in my recollection that at that time you said two of the yard crew would be at the extreme rear of the movement, and that the





third man, the engine follower, would be about car No. 15?

A. He could be at car No. 15 if there was curvature in the track so that an exchange of signals was necessary to make the couplings.

Q. He could be?

A. Yes, he could be.

Q. All right. Well, then, I think you said that when the engineer received the signal to go ahead, he could go ahead and ride out onto the lead track providing the switch were in the correct position?

A. And that he could see.

Q. And that he could see and providing he could see ahead he could continue right down the lead track and onto the switching lead?

A. That is correct.

Q. Well, where would the yard crew be during the time from the entry of the locomotive onto the lead track until it stopped on the switching lead?

A. They would be riding out with the cars.

Q. How would the locomotive get onto the switching lead? Would there be a switch to change?

A. No. If there were a switch to change, the engineer would be required to stop and then wait until the engine follower walked from his position up to set the switch.

Q. And under what circumstances would that kind of a movement be carried out when there is no member of the yard crew riding on the front of the locomotive itself?



- A. Well, only when the engineer had a complete view of the route that he was taking and also that he was in a position to see that all the switches for his route were set.
- Q. You mean by that where he has a complete view of the entire route up to the point where he is going to stop?
- A. That is correct.
- Q. This also may be on the record at various places, but I would just like to get it into my mind again. On road service in freight you have what crew?
- A. We have the same number: a conductor and two trainmen, who are equal to a yard foreman and two helpers in yard service.
- Q. A conductor and two trainmen?
- A. Yes.
- Q. An engineer and a fireman?
- A. Yes.
- Q. Now, when the train is moving where are those people? I don't suppose you need worry about the conductor. He is in the caboose, is he?
- A. He is in the caboose, and the rear trainman is in the caboose and the head trainman is on the engine.
- Q. Where on the engine?
- A. He has a seat on the road switcher on the left side, and if it is a box car type that is used, his seat is in the centre of the cab.
- Q. A box car type of what?



A. Engine.

Q. You are speaking about diesel engines?

A. Yes.

Q. What is this box car type?

A. A car body type.

Q. That is the kind where the crew is right up in the nose of the engine?

A. That is correct, sir.

Q. What about a steam engine?

A. There is also a seat in front of the fireman's seat for the head trainman on a steam engine.

Q. And that is where he rides while the engine is on the road, while the train is on the road?

A. That is correct.

Q. Well, then, what about passenger? Is the situation the same as you have just described for freight?

A. No, the situation is different to the extent that the head trainman does not ride on the engine in a passenger train.

Q. Who rides in the engine?

A. Just the engineer and the fireman.

Q. That is the present practice?

A. That is the present practice.

Q. In both steam and diesel?

A. In both steam and in diesel.

Q. Well, then, there was some discussion about the training of firemen. What about the training of the yard crew? What training do they get before they go into service, if any?



A. Well, in Vancouver at present we have an experienced yard foreman who gives the new yardmen a brief training by taking them out on the ground, showing them how to give signals, teaching them the various interpretations of the signals, teaching them the material on the car such as the couplers and the brakes, and he gives them a brief instruction on the rules.

After he is through with them we assign them to an experienced foreman and they make two or three of what we call student trips on their own with these crews and watch them work and get the benefit of their experience.

Q. On those occasions they are not part of the crew; they are just observers?

A. They are not part of the crew. They are observers although they ride with the crew and sometimes take part in the work.

Q. Do they have any written examination before they go into service?

A. Yes, after the instructor gets through instructing them they are provided with a Rule Book and also an Examination Book and they write their book, if possible, before they start to work. Sometimes we permit them to study the book, start to work and write the book after they have started to work.

Q. If you have already answered this question do not repeat it, but have you already told us in the same detail the things that enter into





the training of the fireman?

A. No, I don't believe so.

Q. Well, then, tell us about that.

A. A fireman is employed in Western Canada as a wiper. That means that he does labour work around the shop tracks, such as cleaning engines and getting supplies for engines and working with what we call a hostler, who moves the engine. He takes coal and water or supplies oil and he keeps the steam up and watches the water supply of engines. That is his initial training.

Q. And that is in the shop?

A. That is in the shop and around the shop track outside. He climbs up into engines and down, and so on, but he does not move the engines.

Q. The shop track that we have heard mentioned so often is not necessarily in the shop but in the neighbourhood?

A. That is correct.

Q. It may be in or it may be outside?

A. Yes.

Q. Right.

A. From that position his first promotion is to a fireman on a yard engine and there he gets experience. If it is a coal-burning engine and if his experience around the shop is limited to just getting steam up and he is employed on his first assignment, a yard steam engine, and he is not able to fire it properly because he has not had sufficient experience,



the engineer instructs him and helps him.

Q. During that time he is one of the crew members?  
He is not an observer?

A. No, he is one of the crew, and that is the way the fireman gets his initial experience. When he is promoted to fireman he is of course also required to write an examination on this Rule Book, but he does not get the Rule Book when he enters the service as a wiper.

Q. Well, where does he get the education which enables him to write the examination on the Rule Book?

A. The answers to the questions are in the Rule Book, and the examination paper is so arranged that the answer for the question can be obtained from this book. So he studies the book and gets the answer out of the book.

Q. How is that examination arranged? Does he go into a room like a student and be given the questions and the book or is he given the examination paper ahead of time and he can study the book at his leisure and give his answers at his leisure?

A. He is given the book ahead of time so he can study the book, and he is given the examination paper together with the book generally in the locomotive foreman's office where he can sit down and read his book.

Q. Now, when does he write that examination with reference to the time that he has his first assign-



ment on a steam engine in the yard?

A. Generally he writes it after he has made his first trip.

Q. So he has had some observation and experience in the practical application of these rules?

A. That is correct.

Q. And then it is a matter of spending about six months in the yard before he is entitled to be promoted to road service, is it, or is it a year?

A. He becomes a spare man later on when he is qualified and he is subject to being called for road service if he is qualified and capable.

Q. Now, with respect to the signals which are covered in that Rule Book, does he get any education in the matter of signals before he is called on to write an examination on that book, apart from what he observes in yard experience in his first assignment?

(Page 1115 follows)



A To my knowledge, he does not get any examination.

Q Not examination -- education.

A He might get very brief information from the hostler, or someone around the shop but, to my knowledge, no special education is given to him when he works around the shop tracks. He may see, and observe, and learn the three basic signals from the movements going on around him, but I know of no special attention which is given to wipers in this situation.

MR. LEWIS: I think Mr. Shepp's description of the training is, generally, right, and I do not know whether the Commission feels it would be better to go further now, or at some later date, but I just want to go on record -- it might be done easier in two or three questions.

THE CHAIRMAN: That is for you to say. If you want to ask more questions of this witness, you may do so.

MR. LEWIS: I think I do because it would keep the matter in its logical place while we are discussing the training.

BY MR. LEWIS:

Q Mr. Shepp, did I hear you correctly as saying that the fireman is not given any student trips at all; that he is just put right on the yard engine from being a wiper without any student trips. Is that what you said?

A That is a general practice, yes.

Q I am instructed, Mr. Shepp, that that is not the





case and that he is taken out on at least three student trips before he is put on a yard engine.

THE CHAIRMAN: As a fireman?

MR. LEWIS: As a fireman, he gets at least three student trips before that is done.

THE WITNESS: That may very well be in steam service. I am not quite certain about steam service. He may possible get some student trips in steam service, although I have known of firemen, of course, going out with very little experience, and in my own experience I have worked with steam engines where we have had an inexperienced fireman, and where there has been considerable delay caused because the engineer had to get down and build up steam. It was from that experience I was speaking, but in that experience I don't believe the fireman had any student trips.

BY MR. LEWIS:

Q Those would be unusual or infrequent circumstances, would they not?

A Yes, they were infrequent.

Q I am instructed that these three student trips are given even in the case of diesel engines?

A That is not my understanding.

Q That is not your understanding?

A No.

Q Secondly, when this wiper works on the shop track does he not also, in that job, assist the hostler in doing whatever switching may be necessary on that engine, bringing the engine from one place



to another and so on?

A Oh, he may walk down and throw a switch, yes.

He generally assists the hostler.

Q Yes, and the hostler's job is to move an engine from one point to another?

A Yes, that is right.

Q And he assists him in doing that?

A Sometimes he does, and sometimes the hostler does it himself.

THE CHAIRMAN: What do you mean by saying "he assists"? You say he assists the hostler. What does he do?

MR. LEWIS: I am coming to that.

BY MR. LEWIS:

Q And when he assists the hostler in moving this engine, what does he do?

A He lines the switch if the hostler tells him to line the switch after he passes over. He lines the switch.

Q And he signals to the hostler if a signal is necessary?

A If at that time he is acquainted with the signal, I presume he would give him a signal. Otherwise, he would tell him.

Q But it is his opportunity to learn and become familiar with them?

A I said he must learn that from the hostler and working around the shop track.

Q Am I right in suggesting he would be on the shop track a fair length of time before he is promoted to



fireman?

A Normally he would be, but there have been occasions in recent years when it was difficult to obtain men when they have spent very little time there.

Q I appreciate that, Mr. Shepp, and I suppose it has been difficult to obtain men in other parts of the service too, and you have had the same problem.

A That is true.

Q But, normally, the man would be on the shop track for some considerable time?

A Normally. That is correct.

Q A year, two years, or three? That is right, isn't it?

A It is possible. I am sure without looking up the records.

Q Finally, a wiper who had been promoted to becoming a fireman would not, in the first<sup>instance</sup>/assigned to any yard engine. He would go on the yards fare board first, wouldn't he?

A That is right.

Q And he would increase his ~~experience~~ in that sort of junior position before he was actually given a permanent assignment?

A He would build up his seniority, yes.

Q And in doing that, builds up his experience?

A Yes, he would.

Q There was one other point, Mr. Shepp, which you mentioned. I am sure you did not want to mislead the Commission. You said, I think, that the head brakeman's seat on a steam engine is in front of the



fireman's. Is that on all the steam engines?

A No. I do not say it is all on steam engines. There are some where the seat is behind the fireman's seat on them.

Q Yes, I just wanted to have the record complete with regard to that; there are engines where this seat is behind. You made mention also -- I have not seen it, and I wonder if you have -- of an order of the Transport Commissioners with regard to the head brakeman's seat which specifies that that seat may be in the cab but must not obstruct the view of the fireman?

A I don't recall that.

Q You don't recall that order being issued? Then I will bring it to the notice of the Commission later. I apologize for not having it with me.

BY HON. MR. McLAURIN:

Q You were talking about this head end brakeman and I gather you said he was sitting in the cab while the train was in motion?

A That is correct.

Q Does he always sit there when it is in motion?

A Always.

Q Are there any times when he has to be on the ground when the train is in motion?

A Not when a train is in motion. The only time he is on the ground is when they are stopped and they are doing some switching at the station.

Q Then he would be on the ground?





A     Then he would be on the ground.

THE CHAIRMAN:   That is all, thank you,  
Mr. Shepp.



JOHN EDWARD JOHNSON, sworn

EXAMINED BY MR. SINCLAIR:

Q Mr. Johnson, after coming to Canada as a boy with your parents, you finished your schooling and joined the Canadian Pacific as a yardman at Outremont in 1926?

A That is right.

Q And you stayed as a yardman for a few months until March, 1927 when you were promoted to switch tender at Outremont?

A That is right.



J.E.Johnson

Q And you operated as a switch tender in various yards in Montreal and particularly at Outremont until December, 1942?

A Right.

Q At that time you were appointed relieving yardmaster at Outremont and you stayed as relieving yardmaster until January 1944?

A Yes.

Q At that time, January 1944, you were made permanent yardmaster at Outremont and you moved to St.Luc yard at Montreal when it opened in June, 1950 as a humpmaster.

A That is right.

Q And you were a humpmaster until you were appointed night general yardmaster in June, 1951, at St. Luc.

A That is right.

Q And then you were general yardmaster since 1952, working always at night?

A That is right.

Q And that is the position you hold today?

A That is the position I hold today.

THE CHAIRMAN: Mr.Sinclair, right at the opening, would you find out from the witness what a switch tender is? I think this is the first time we have had that.

BY MR. SINCLAIR: What does a switch tender do, Mr.Johnson?

A A switch tender's duties are to see that the switches are in proper position for the movement of trains and engines.



J.E.Johnson

Q Does a switch tender yard trains?

A Yes, on instructions from the yardmaster.

Q And does he bring trains out of a yard?

A Yes, sir, he also brings the train out of a yard.

Q Have you switch tenders working in Cote St.Luc today?

A Yes, sir, we have.

HON. MR.MARTINEAU: Could you not make it a little clearer as to what a switch tender is, and what he does in the yard?

THE CHAIRMAN: I just wondered whether my colleagues got a better impression than I did. Just go a little slower, Mr. Johnson, and tell us exactly what it is and what it includes.

MR. LEWIS: We would have no objection if my friend explained it, if he would like to do so.

MR. SINCLAIR: When I have an expert here, like Mr.Johnson, I would rather that he should do it.

THE WITNESS: A switch tender's duties -- we have one on the outbound shop tracks -- we have four tracks going out of the shop -- the switch tender's duties are, at the shop, to find out what time trains are ordered, also engine numbers. When he sees an engine starting to move he will set the switch in proper position to allow the engine to go out of the shop and go toward the departure yard or whatever may be necessary.

THE CHAIRMAN: A switch tender is part of the shop crew?





J.E.Johnson

THE WITNESS: Not exactly. We also have switch tenders in the receiving yard for the yarding of trains. The operator will relay the train to the yardmaster, the yardmaster will relay the train to the switch tender and advise him what to set the switches for.

THE CHAIRMAN: So he knows ahead of time where the trains are coming, and sets the switch accordingly?

THE WITNESS: In the departure yard we have the switch tender there. He knows from the yardmaster what tracks those trains are <sup>made up</sup> ~~meant to be~~ on, and he will see that the switches are set for the engine to go on that track, and he will see that the switches are set for the departure of that train.

We also have a switch tender in front of the assistant general yardmaster's office and he lines up for the yard engines that are pulling trains down from the classification yard to the departure yard. He is there to see that the switches are properly lined for the movement of engines and cars.

THE CHAIRMAN: The classification yard is the yard after the cars have gone over the hump?

THE WITNESS: That is right. It is where they are classified for their different points.

HON. MR.MARTINEAU: But he does not set the switches for switching engines?

THE WITNESS: No, the yardmaster will look after that. It is just for advance movements. The yardmaster will tell him there is a train coming off track 20 to track 35 departure; the yardmaster will advise



J.E.Johnson

the switch tender in advance and the switch tender will see that the switches are lined up for that movement.

MR. SINCLAIR: Switches where, Mr.Johnson? You have got the train coming out of 20, that would be classification, going, you say, to 35 departure.

THE CHAIRMAN: Those are tracks?

MR. SINCLAIR: Those are tracks -- track numbers.

BY MR. SINCLAIR:

Q What would the switch tender do? Would he line the switch at the end of track 20 to line the road up for the movement right to the yard?

A He will see that the switches are lined up, especially at the cross-overs and if there is sufficient time he will go as far as 35. If not, when the engine moves to No.35 departure, well, he might have to stop, and the engine follower will throw the 35 switch. It depends on how much work the switch tender has at the time, or what the distance is from the pulldown.

Q Taking the situation as you come out of the classification yard to move into the departure yard -- I am sorry, sir, that the kind of yard we are talking about now is a little hard to visualize by looking at Exhibit 52. But maybe looking at this, which is not at all like Cote St.Luc, Mr.Johnson, and I realize that -- here we have some crossovers down into the main tracks.



J.E.Johnson

THE CHAIRMAN: You are now looking at Exhibit 52?

MR. SINCLAIR: Yes. What would the switch tender do with respect to a movement that was coming out of, say, track 8?

THE CHAIRMAN: If you would stand further away, Mr.Sinclair, perhaps the witness would speak up.

MR. SINCLAIR: I am sorry. I think the witness was trying to indicate that I had got it upside down -- got it going the wrong way.

THE CHAIRMAN: I can understand that, but please don't keep it confidential.

MR. SINCLAIR: Remember, Mr.Johnson, we have to get this on the record, and while I realize that Cote St.Luc moves this way, can you do it by keeping the movements going as far as possible in the way Mr. Shepp did?

THE WITNESS: You would be pulling against the movement, then. We pull out west. We would be pulling out from No.1 on this. We have not got 35 tracks shown here. We could pull out from No.1 where the switch tender would get this crossover switch, or, rather, these crossover switches that are shown at the switch table. The switch tender's duty would be to see that these crossover switches are lined up , and after he gets past that movement, we would have to place the departure yard further down, and as I said before, depending on the distance that the switch is from the last crossover and how much time the switch



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tender has to line the switches up, he gets them over the main **portion** where the crossovers are. Switch tender is not part of the engine crew. He lines up<sup>for</sup>/all the yard engines, or for any engines or cars in the vicinity.

BY MR. SINCLAIR:

Q He is not part of any yard crew?

A He is not part of any engine crew.

Q Is he part of a ground crew?

A No. He is a yard employee.





Q But he is not part of a yard crew?

HON. MR. MARTINEAU: Would he help the yard crew?

THE WITNESS: Yes, because he sees that the switches are lined up in advance of the movement to avoid the train or engine having to stop.

HON. MR. MARTINEAU: If it is in the vicinity?

THE WITNESS: Yes. If not, the engine follower will get off the train and throw the switches.

THE CHAIRMAN: He is a yard employee, but he is not a trainman or a yard man identified with any particular crew attached to a locomotive?

THE WITNESS: No, he is a switch tender. There is a definite rate for him. He is in one sense a yard man, but he has a different rate and a different duty.

HON. MR. McLAURIN: You say he is advised by the yard master that such and such a train is coming?

THE WITNESS: Yes sir.

HON. MR. McLAURIN: From my limited knowledge of a yard master's office I believe it may be up to two miles away. How is that advice given?

THE WITNESS: At St. Luc it is very simple. We have talk-back speakers right through the yard. The yard master will call on the talk-back speaker, and he will also be able to get a reply from



the switch tender who is receiving the information.

BY MR. SINCLAIR:

Q Now the purpose of the switch tender is to relieve. He is assigned at points of congestion to relieve any congestion on account of trains having to stop there?

A That is right.

Q And is that a summary of his main duty?

A That would be right.

Q And one of the main places in Cote St. Luc is known as the "throat" of the yard?

A That is right.

Q Which is the "mouth" from classification to departure?

A That is right.

HON. MR. MARTINEAU: How did you call it?

MR. SINCLAIR: The throat of the yard.

BY MR. SINCLAIR:

Q It goes in the "throat" and comes out in the departure yard. Is that correct?

A That is right.

Q You have been a yard master since 1942, is that correct?

A That is correct.

Q First relieving and then, since 1944, a fully positioned yard master?

A That is right.

Q And you have been in St. Luc yard since it opened?



A In 1950. Yes.

Q As a yard master, how much of your time would you spend on the ground -- out on the ground?

A As a yard master?

Q Yes?

A At St. Luc it depends on the yard master. The yard master is a yard master and a hump master. He would not spend any time on the ground.

Q That is why I did not put you as a hump master. About how much time as a yard master is spent on the ground?

A A yard master -- actually, we only have three yard masters.

Q When you were a yard master at Outremont?

A At Outremont we used to spend most of our time outside. I would say we spent almost 80 per cent of our time outside.

Q And when you came over to Cote St. Luc you were the hump master. How much time were you out on the ground then?

A We were not on the ground at all. We worked in the hump master's office.

Q In his office?

A Yes.

Q Can you see the operation from the office?

A Oh yes.

Q It is a tower?

A They have a second storey on there and they have a speaker system -- a talk-back system -- so that the yard master can instruct his movements



over the two-way radio system.

THE CHAIRMAN: At St. Luc the yard master's office is in the second storey?

MR. LEWIS: Is it the yard master you are talking about?

THE WITNESS: It is. Yard masters are sometimes called hump masters. The yard masters do bid for the job, but at that point we call them hump masters, so we know what position they are in.

THE CHAIRMAN: I must confess I don't know the difference between a yard master and a hump master at this point.

THE WITNESS: A yard master and a hump master are really the same; it is just defining where he is working.

MR. SINCLAIR: If I may lead, Mr. Chairman, the hump master is the man in charge of the hump movement. He has general jurisdiction over hump movement.

THE WITNESS: Movement of trains and the humping of cars.

BY MR. SINCLAIR:

Q And the yard master, if he is not working the hump is the true yard master?

A That is right.

Q The rate happens to be the same?

A Yes.

THE CHAIRMAN: So a hump master is a yard master in a yard where there is a hump in the vicinity of the yard?





THE WITNESS: Yes.

BY MR. SINCLAIR:

Q Since June, 1951, when you were general yard master working nights at Cote St. Luc, how much time have you spent out on the ground?

A I spent about 50 per cent of the time on the ground.

Q And what would be your duties as general yard master?

A My duties are to see that the trains are dealt with with the least possible delay and to see that we have the cars required for the assigned trains, to check with the ordering of trains, to see that they are ordered correctly, or, when we have sufficient cars, to order extra trains; and also to order any extra yard power if required.

Q Do you supervise the manner in which switching takes place?

A I do make occasional trips down to the hump to see how they are humping, and follow the different movements all through the yard. The company supplies a station wagon, radio-equipped, so that we can make observations in the yard.

Q On an ordinary night's work, would you spend some time in the classification yard on the ground?

A On an ordinary night, if things are going normally, no, because we are watching the con-



nections very closely.

Q Can you see from your office?

A I can see from the office, also I go to the assistant general yard master's office, which is upstairs, and I often supervise from there. I might spend, probably, an hour a night up there with him.

Q That is on the big tower?

A No sir, that is only on the second storey. What you have in mind, I think, is the retarder tower.

Q No --

A It is the second storey, but you have a good view of the yard from that location.

Q And would you observe in your work, and have you jurisdiction over the speed of movement in switching and coupling, the positioning of crews and matters of that kind?

A Yes, I supervise that, and if the crews are not positioned properly I will speak to the yard foreman and see that he positions his crews.

THE CHAIRMAN: Mr. Sinclair, there is a structure in St. Luc yard, at the hump, with two storeys -- what do you call that?

THE WITNESS: That is the hump master's building. His office is upstairs, and the yard foreman works the panel downstairs.

THE CHAIRMAN: What do you call



that building?

THE WITNESS: That is the hump master's office -- the hump office.

THE CHAIRMAN: There is another building, is there not --

THE WITNESS: A very high tower, that would be the retarder tower.

THE CHAIRMAN: Who works there?

THE WITNESS: The retarder operator. He controls the speed of the cars coming down from the hump.

HON. MR. MARTINEAU: There is a building there, after the trains are assembled.

MR. SINCLAIR: That is the office in which you were the other day. At the hump there is a building which is the office with a second floor where the hump master works. In the next building there is a high tower -- it is the retarder tower, and the next, following down to the north or to the east, whichever it is, I forget -- I am told it is to the south -- the next, following the movement down the yard, is the yard master's and assistant yard master's office where the trains move from the classification yard down to the departure yard.

THE WITNESS: The yard office.

MR. SINCLAIR: So, starting at the hump, these are the offices -- the hump master, the retarder, the general yard master, yard office and assistant. Is that correct, Mr. Johnson?



THE WITNESS: That is correct, and in the departure yard there is a small building down there where the telegraph operator is, and there is one engine crew working down there. The telegraph operator gets the information and gives the train --

HON. MR. MARTINEAU: It seems to me that in that building there was some machinery on the ground floor?

THE WITNESS: Would that be the entrance to the yard, or at the departure?

HON. MR. MARTINEAU: That is what I would like to know.

THE WITNESS: I think that is the entrance. That is at Hampstead.

HON. MR. MARTINEAU: I don't know, but there were a lot of telegraph machines.

THE WITNESS: Where were those machines?

HON. MR. MARTINEAU: There was a machine upstairs.

THE WITNESS: Was it a big, high building? That would be --

HON. MR. MARTINEAU: Oh no.

THE WITNESS: There was a lot of machinery there? Oh, that is the hump office. There is machinery, as you call it, in the back of the room. Is that it?

MR. SINCLAIR: I think Mr. Martineau is thinking of the machinery in the yard office where





they book in consists.

HON. MR. MARTINEAU: There were some teletype machines.

THE WITNESS: I.B.M. machines? That is beyond the classification yard and the departure yard.

HON. MR. MARTINEAU: Yes, that is the one I was talking about.

THE WITNESS: That is the yard office, the assistant general yard master's office.

MR. SINCLAIR: That is the building where your office is and you can make your observations of the classification and departure?

THE WITNESS: That is right.

THE CHAIRMAN: This would seem to be an opportune time at which to make a break.

--- Recess.



L-5

--- Following recess.

BY MR. SINCLAIR:

Q Now, Mr. Johnson, for the record, could you give us a short description of the St. Luc yard?

A St. Luc yard is a hump yard with a receiving yard with 18 tracks, a classification yard with 48 tracks and a departure yard with 38 tracks. In addition to this we have two icing tracks.

HON. MR. MARTINEAU: What?

THE WITNESS: Icing tracks -- tracks that are used to place cars on that have to be iced, such as fruit cars. We have a cleaning yard with 8 tracks for cleaning cars, and a repair track with 15 tracks.

BY MR. SINCLAIR:

Q A repair yard?

A A repair yard. We call it a repair track. That is why I got them mixed. We have a repair yard with 15 tracks and a flat switching yard with 6 tracks.

THE CHAIRMAN: All at St. Luc?

THE WITNESS: All at St. Luc, sir.

Also inbound and outbound shop tracks to and from the yards.

BY MR. SINCLAIR:

Q Trains entering St. Luc come in to the receiving yard, and you said it consists of 18 tracks. What is its capacity?

A Its capacity is 1,450 cars.

Q And then it moves to the hump, does it?



A It moves to the hump unless we have cars that come up without making close connection, in which case those cars are not humped.

Q And they go down where?

A To the departure yard. They would go into the departure yard. All trains arrive from the receiving yard, as we call it, the Hampstead end, or the north end of St. Luc yard.

Q All freight trains come in there?

A And we have an east and west loop that runs around the yard. The west loop is clear at all times.

Q Do all freight trains coming from Montreal go through St. Luc?

A Yes sir, all trains.

Q They come in at Hampstead and move through the yard to the south?

A Yes sir.

Q From north to south?

A From north to south, yes.

Q Now, when a train comes in at the classification yard, it is yarded --

A You mean into the receiving yard.

Q Into the receiving yard. I am saying it is yarded, and then what happens to it?

A The train is yarded, the way bills are picked up at Hampstead tower, where the conductor checks in.

THE CHAIRMAN: What do you mean by

"yarded"?



THE WITNESS: The train is put in. The conductor registers in and leaves his way bills in the office. We have a way bill car which picks up the way bills at Hampstead and brings them down to the yard office. The car marker checks the way bills against the advance consist.

BY MR. SINCLAIR:

Q The advance consist is the order in which the box cars or other freight cars are on the train, by number, giving their origin and destination?

A That is right.

Q And that comes in, and that information is transmitted as you described earlier --

A The information given is sent by teletype to the retarder operator and also the hump master. It gives the car number, the weight of the car, the contents and the track it has to be switched on to.

Q Well, now, we are up to the receiving yard. The train is yarded, this various information is available, and then what happens?

A After the train is yarded, the car department sends a car man to the train to inspect the train. After the inspection is completed, the yard master or the hump master is advised that the train has been inspected and that it is o.k. to push to the hump. That is a train inspection of the train coming in.

Q What do you inspect for?

A We inspect for any defects on the car. If





the car has any defects the carmen put a cripple card on the car.

Q That is the card that says the car is in bad order and is to be cut out of the train, and is not to remain there but be sent to some place for repairs. Is that right?

A That is right.

Q That is what they call a "cripple card"?

A That is right, and instead of being humped on the classification track, they are placed on the repair track.

Q Now the hump master has been told that the train that has been brought in -- that the cars on that train -- are ready to be moved?

A That is right.

Q Would the road engine be cut off before that?

A Yes, and the road engine goes into <sup>the shop</sup> ~~a shed~~.

Q On the shop track?

A That is right.

Q And you say the cars are ready. Take it from there.

A The hump master advises the <sup>yard</sup> ~~crew~~ foreman of the track he is going to batch.

Q Does a yard engine go along?

A Yes sir.

Q And how does the yard engine know -- the yard engineman know -- that he has to couple on to this batch? Who tells him that, and how?

A The yard engine is sent over by the west loop



which has a block signal. The operator at Hampstead is advised that the yard engine is going back, or he can give him <sup>the</sup> block signal, making sure the track is clear.

Q That brings him from the hump out to the receiving yard?

A To the west loop. And then he goes to the receiving yard via the west loop.

Q Yes, and what does he do then?

A There is a yard foreman and one yardman at the Hampstead end of the yard, or the north end of the yard, and one yardman at what we could call No. 31, which is at the south end of the receiving yard.

Q The south end of the receiving yard?

A Yes sir, the south end. The yard master advises the yard foreman of the track he is going to <sup>hump</sup> ~~hump~~. The <sup>yard</sup> ~~hump~~ foreman and the yardman bring the engine through on to that track, but before doing so they advise the yardman who is at No. 31.



J.E.Johnson

Q No.31?

A The track they are going to ~~be~~<sup>hump.</sup> So he will be lined up and have the switches all set so that the engine can push the cars to the hump.

Q Did you mention "Hampstead". That is the name you have for the entrance to the receiving yard.

A That is right.

Q And you say that all the lines would be ready?

A Ready to push to the hump.

Q That is operated by cab signals?

A Two-way radio.

Q Two-way radio?

A Yes. The cab signal shows red, green, yellow and red.

THE CHAIRMAN: They are electric?

THE WITNESS: Yes. Red, green, yellow and red.

BY MR. SINCLAIR:

Q Is there anything in that sequence? I think that is what is in the mind of the chairman?

A Yes.. When there is red on a cab signal it means stop. When it is green, he can push up at ten to 15 miles an hour. When that cab signal turns yellow, he pushes at three or four miles an hour. When the two reds are on the cab signal, that is a signal for him to reverse the engine and back up. When the switches are all lined to the hump, the cab signal will be green.



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Before pushing, the engineman calls the humpmaster to advise him that he has a green cab signal, and inquires if it is okay to push.

Q He asks him if it is okay to push?

A He says he has a green cab signal, and inquires if it is okay to push.

Q In what way does he do that?

Does he say: "This is Joe calling you"?

Does he say that?

A He will call up and say: "Engine <sup>7038</sup>~~7038~~, green light signal, is it okay to push?"

Q And the humpmaster --

A The humpmaster will say: "Okay to push" making sure that the lead is clear.

Q Who does that?

A The humpmaster. He can see.

Q Before he gives the okay to push, the humpmaster is required to make sure that the lead is clear?

A That is right.

THE CHAIRMAN: Has the ground crew anything to do with this particular movement?

MR. SINCLAIR: I will put the question to the witness.

BY MR. SINCLAIR:

Q What has the yard crew to do with this particular movement?

A There is a yard foreman at the hump, and two yardmen. The yard foreman operates the panel





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which can change the cab signal in the engine.

Q The yard foreman operates a panel at the hump which can change the signal in the engine?

A In the cabin, yes, and the panel also has buttons for the various tracks from one to 48.

THE CHAIRMAN: In what yard?

THE WITNESS: In the classified yard.

They change the switches in the classified yard, sir.

HON. MR. McLAURIN: This yard foreman is identified with that locomotive, is that right?

THE WITNESS: Yes.

BY MR. SINCLAIR:

Q Where are the two other members of the crew, the field man and the engine follower?

Where are they?

A They are at the hump to pull the pin as the batch comes up to the hump.

Q They pull the pin?

A Yes. If there is only one car to be cut off there is no signal given to the yardman. If there are two cars, the yard foreman has a buzzer and he will push twice for two cars, three times for three cars, and so on. By pushing for longer periods he can indicate five cars, or ten cars.

THE CHAIRMAN: At that point if I have this picture in my mind properly, between the receiving yard and the classification yard there is this hump.



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THE WITNESS: Yes sir.

BY THE CHAIRMAN:

Q And it is a single track?

A Yes sir.

Q And everything from the receiving yard which comes into the classification yard goes over this track -- over this hump?

A Yes.

Q So there can only be one moved at a time?

A That is right. The batch comes up to the hump, and the car retarder operator has been advised of the list number that they are humping.

Q The car retarder. Is he the man in the high tower?

A In the high tower that controls the speed of the cars. He has a list in front of him and when a batch comes to the hump the yard foreman pushes the buttons for various tracks according to the list. The panel can hold several codes.

Q You said "codes"?

A He can punch for four tracks in advance, but the general practice is to use only three. With every code he punches, a white light comes on at the top, and as much as possible we try to get them to keep one light out so he will not have a code punched ahead. If he punches a fifth code with four in the panel, the fifth will not register.

Q What would happen?

A The cars would start going astray, after that.



J.E.Johnson

Q So you keep --

A One light out so that he is not one code ahead of himself.

BY MR. SINCLAIR:

Q That is a safety factor?

A It is the general practice.

Q That is the general practice. So, the cars go over the hump and on to the various tracks.

A In the classification yard.

Q And I think you said you have 48 tracks?

A Yes.

Q And a capacity of how many cars?

A 1,950 cars capacity and as these cars go over the hump, there is also a speaker from the yard foreman to the hump tower. If has a car from No.9 and it has a cripple card on it it would go on track 48. He advises the car retarder operator that that car will go on track 48.



Q He advised the car retarder operator?

A So the car retarder operator would be able to follow where the cars are going. At the completion of the batch there is a possibility that there will be one or two cars out of place because they did not go properly into clear on some track. Then the engine --

Q Before we get to that, ~~after~~ the batch has been completely pushed over the hump and classified taking a normal movement, does the engine then go over the hump?

A The <sup>yard foreman</sup> ~~engineer~~ will check with the retarder operator to see if there is any trimming to be done. What we call "trimming" is pushing cars into clear.

Q How do you trim, and what is the crew on the engine as you go down to trim?

A When they go down to trim, the engine follower will go down with the engine --

Q Where does he ride?

A On the front <sup>stop</sup> ~~end~~

Q On what side?

A On the right side.

THE CHAIRMAN: You asked the witness whether the engine went over the hump or not, but he did not answer.

THE WITNESS: I beg your pardon.

MR. SINCLAIR: I thought he said "yes" though he may have nodded. Maybe he did not say "yes".

THE WITNESS: I think I said "yes".





BY MR. SINCLAIR:

Q After the batch has been pushed over the hump, you say a communication is made with the retarder tower and if there is some trimming to do the engine goes down over the hump to do this trimming. You said this trimming was to push cars in the clear. Is it also to make more room?

A That is correct, yes. Occasionally it is.

Q All right. Coming down to that, is the engine follower on the engine?

A On the right front side of the engine.

Q Yes. And when he gets down, we will say he is going to trim track 20. What does he do?

A He might have to push track 20 into the clear and he might have to bring two or three cars back.

Q He might have to bring the cars back? How does he bring them back?

A He couples to the cars and gives the engineman a back-up hand signal.

Q And the engine takes them where?

A He might not bring them right back to the ~~hump~~ <sup>hump</sup> with him. He takes them until he is stopped by the engine follower. He might bring them back as far as the switch where the cars are ~~throwing~~ <sup>going</sup>. He will not go up to the cars in all cases. He will just pull the pin on the car and let it go on track 11, or push it in on track 21 as required.



Q When he is doing this trimming or replacement of cars, what is preventing another train from shoving up the hump and sending cars on top of them?

A When the engine goes down to trim the yard foreman puts a trim signal on which gives the engine in the classification yard a green block light which permits him to back up. When that green block light is on for the trim engine the next batch cannot go past the hump because the block automatically goes red when the trim signal is in operation.

THE CHAIRMAN: Mr. Sinclair, have you told us -- could you find out -- what happens to the other members of the ground crew when the engine goes over the hump to do this trimming?

BY MR. SINCLAIR:

Q What happens to the field man and the yard foreman when the engine goes over the hump? Where do they go?

A The field man generally stands up waiting for the next batch, and the yard foreman sits at his hump panel unless there is excessive trimming, and then the field man will go down; or if the weather is stormy the yard foreman follows down and goes back with the engine. But normally there is very little trimming, and the engine follower goes with the engine.

THE CHAIRMAN: Then the yard foreman and



the yardman . at the hump for the first batch become part of the crew of the next train coming on?

THE WITNESS: That is right. They take turn and turn about -- one at the hump and one at Hampstead.

BY MR. SINCLAIR:

Q So each engine on the hump works with two ground crews, one at Hampstead and one at the hump?

A That is right.

Q And then, after the engine has gone over the hump it goes into a circuit?

A That is right. The circuit is controlled by automatic signals and runs round the hump back to the receiving yard. He goes out by no. 1 classified. There is a spring switch there. Then he comes back round <sup>the</sup> west loop again for the next batch to be pushed up.

Q And on that move would any of the ground crew ride the engine?

A No sir. It comes back light.

Q On cab signals?

A On block signals.

BY THE CHAIRMAN:

Q What happens to the engine follower who is assisting in trimming?

A He gets off at the hump office and is ready to start with the next batch. The engine follower and the field man generally take turns on each batch pulling pins.



J.E.Johnson

BY MR. SINCLAIR:

Q You say that if there is a lot of work to do, when they are going down to trim, the fieldman goes down too?

A That is right.

Q And some batches may need no trimming at all?

A Very often.

Q And the engine goes back to the receiving end by way of the west loop?

A That is right.

Q And that system keeps going round the clock?

A Yes, 24 hours a day.

THE CHAIRMAN: When the engine finishes this trimming it goes back to the receiving yard with the engineer and the fireman on it, and nobody else?

A That is right.

BY HON.MR.McLAURIN:

Q There is never more than one locomotive in the classification yard at a time, is there?

A Yes, we do have more than one, sometimes.

Q Two locomotives at a time -- two locomotives doing trimming at the same time?

A In stormy weather we will sometimes have two engines doing trimming, and sometimes we will send an engine from the yard ~~to~~ <sup>through</sup> a clear track to push another track to the departure yard.

Q Do you push these tracks from the south in most cases or from the north?

A They have to be pushed from the north to the south.





J.E.Johnson

Q If an engine goes over the hump and it is not going to do trimming --

A It enters into the circuit for the run round back to the receiving yard. That track is all lined up.

Q When he stops to go round?

A When he goes over the hump and he is not going to do trimming. No.1 classified is a spring switch.

Q I see.

A He goes down on the No.1, and the spring switch automatically springs back for the west loop.

Q And when that move is being made -- the engine going over the hump and coming back into the west loop like that -- it is the only engine in that area?

A That is right. Otherwise the yardman calls the engine crew by radio, calls the engine number and advises him to stay in the clear until No. 3684, or whatever engine it happens to be, is clear.

THE CHAIRMAN: The second engine may be doing trimming in the classification yard at that time.

What crew has it got?

MR.SINCLAIR: When you send a yard engine from the yard office to do trimming, what crew would be on that?

THE WITNESS: A crew from the yard office. An engineer, an engine follower, a foreman -- a fireman and a fieldman.



J.E.Johnson

BY THE CHAIRMAN:

Q Why would you have three of the ground crew on that engine doing trimming and only the engine follower on the engine doing trimming that went over the hump?

A When we send an engine from the yard office to do trimming it will be on account of stormy weather, and there is excessive trimming to be done, and in order to get this work done a full crew is sent, and they couple up the track and take all the room on the track.

Q Ordinary trimming is just pushing a couple of cars?

A Yes, but on occasions we have a skate tender who is at the south end of the classification yard. A skate tender is a man who puts the skates on the tracks when the pulldown is made. Skates are devised so that they fit on the rails in such a way that the first pair of wheels coming down will ride on the lip, or the tongue, and the skates are curved so as to stop the wheels from rolling, and they act as a brake and stop the cars from rolling back on the tracks.

Q That is to prevent what?

A To prevent them running out at the south end of the classification yard.

Q On to the lead?

A Onto the lead.

Q They are controlled in that way?



J.E.Johnson

A That is right.

Q And if they were going to go into a track to pick a car out and switch it out, would that be done by a special crew?

A At each end.

Q Send an engine round to trim it up, and bring back the car to the departure yard -- would that be it? Would they do that?

A It is possible, but I have never known that to be done.

BY THE CHAIRMAN:

Q The cars that go over the hump -- when they go for repairs, for instance, do they get to their destination by force of gravity?

A They go on to a track. We have three tracks kept for crippled cars -- Nos.46,47 and 48, and we have an engine that works on the repair track 24 hours a day. He keeps pulling out these cars and spotting them on the repair tracks.

Q What crew has he got?

A A full crew -- yard foreman, engine follower, fieldman, engineman and fireman.

I might explain there is what we call a hump spur which is for cars not being humped, such as cars containing expensive machinery, or a car that is too damaged -- damaged to the extent that it cannot go down the hump.



J.E.Johnson

MR.SINCLAIR: When that happens, Mr.Johnson, and you put such cars into this spur, would that move be made on hand signals?

A On cab signals.

BY THE CHAIRMAN:

Q What happens to those cars?

A After the batch is completed they are pushed down either to one of the repair tracks or to such track as the yardmaster or the assistant yardmaster would like them on.

BY MR. SINCLAIR:

Q Now you said that the foreman was at the hump and working at the panel. Would this be it -- that the foreman is mechanically directing the switching and the fieldman is assisting him, and the engine follower is following the point, and that they change over sometimes -- the fieldman is following the point sometimes and the engine follower controls the movement from the panel under the yard foreman?

A That is right.

Q He controls it mechanically?

A That is right.

Q You mentioned a repair yard in Cote St.Luc. I think you said it had six to eight tracks?

A 15 tracks.

Q Now, when men are working on a repair track in Cote St.Luc, how do they protect movement on that track?





J.E.Johnson

A     After the yard foreman spots the track with  
cripples, the car foreman or the car man will  
padlock the switch so that no one can enter.

Q     But all switchmen have a switch key.  Couldn't  
one of them open it?



A No. It is padlocked. The switch is locked with a Yale lock.

Q Where is the key kept?

A In the <sup>car</sup>~~car~~ foreman's office.

Q So to get to that track you have to get the key and open it up?

A No sir. We don't get the key. The car foreman will call up and advise that a certain track is o.k. to push, and then he will go out and unlock that switch so we can push or pull them out.

Q Do you use the blue flag relay referred to by Mr. Shepp in Rule 26?

A No sir. They keep the switches locked up. You have the protection of that locked switch.

Q So you don't use the blue flag?

A No sir

Q Do you use blue flags at St. Luc?

A Occasionally they do, but the practice in the receiving yard has been that the track is not touched until it is reported o.k. to push by the carman or the car foreman, and the hump master sticks very rigidly to that; he will not push until he has an o.k. from the car department.

Q When you say "push" that includes coupling a diesel?

A That includes coupling a diesel to push to the hump.

Q Approximately how many cars do you handle



through Cote St. Luc in a day, Mr. Johnson?

A At the beginning of the week, Sunday and Monday, it is light; we will handle approximately 3,500. At the end of the week it will go to about 5,500.

Q That is in a 24-hour period?

A That is in a 24-hour period, yes, sir.

Q When you give these figures, it is a count --

A In and out count -- count one in, count one out.

Q You have given us the number of cars in the classification yard -- the number of tracks, and its capacity -- and I come down now to the south end of the yard, to the departure yard. How many tracks have you there, and what is the capacity of that department?

A There are 38 tracks, and the capacity is 2,050 cars.

Q And your flat switching yard? What does that consist of?

A Six tracks, with a capacity of 485 cars.

Q And through this yard you move from 3,500, I think you said, to 5,500 cars in a 24-hour period?

A Yes sir, that is right.

Q Mr. Johnson, were any men killed in St. Luc yard in 1956?

A No sir.

Q How many men were injured by moving engines



or cars in St. Luc in 1956?

A None, sir.

Q What type of diesels are used in St. Luc yard?

A We have mostly radio equipped diesels of the 7,000 class -- 1,000 horsepower yard switchers.

Q Similar to Exhibits 35 and 35A, is that correct?

That is, the 7010 as shown in Exhibit 35A and the back view of the 7117. Is that the type?

A That is right.

Q They are 1,000 horsepower, weight on driver, 230,000 pounds. Is there any exception to that?

A Yes sir, we have exceptions. Occasionally we have steam engines working.

Q Do you have any 660 horsepower diesels?

A Yes sir, the 6500 class. We have them occasionally.

Q Yes, and you have the odd steam engine?

A Yes, the odd steam engine and the odd road switcher. When they cannot supply radio-equipped engines we have the others to replace them.

Q Where do you work them when you have them?

A At various points of the yard except the receiving yard where the hump engines are kept permanently.

Q These hump engines are permanently assigned to the receiving yard?

A Yes sir, on account of cab signals.

Q Yes, and if you get 6500's or road switchers or steam engines, you use them where?





A Most of the time for pulldowns at the yard office, but occasionally we will have one working in the departure yard in the morning, but not very often.

Q How many assignments have you in St. Luc?

A We have 27 daily assignments.

Q And how many diesels have you assigned to St. Luc to meet these assignments on a regular basis -- what I am trying to get at, witness, is not the numbers of the diesels.

THE CHAIRMAN: Mr. Johnson, don't speak when a question is being put.

MR. SINCLAIR: We are not wanting engine numbers, but I quite understand that by the way I put that question -- I was not trying to test your memory or expecting you to start reeling off the ones you have there. But can you tell us, on an average, how many diesels you do have?

THE WITNESS: Nine engines assigned.

THE CHAIRMAN: I thought an assignment called for an engine and a crew.

MR. SINCLAIR: That is right, sir, and it works three shifts, three times nine are twenty-seven.

HON. MR. MARTINEAU: We have not got that question answered yet. Nine, is it?

THE WITNESS: Nine.

HON. MR. MARTINEAU: You work around the clock?



THE WITNESS: Yes.

BY MR. SINCLAIR:

Q How many would you normally have on of what you call your 7,000 class diesel? How many of that nine?

A We will average, probably, two steam engines per day.

Q Yes?

A Out of the 27. In the morning --

Q Just a minute. Is that two out of the 9 or out of 27?

A About two steam engines a day. When the engines go in for inspection they are replaced by a steam engine or a road switcher.

Q And is that only at Cote St. Luc?

A Well, sometimes yard switchers are taken from St. Luc but at other points in the terminals, such as Glen, they might have one from St. Luc to operate at the Glen if their engine breaks down, which would be replaced by a steam engine or a road switcher -- road switcher preferred.

Q Where would they be working -- in the lower end of the classification yard?

A They would be working on the pulldowns from the classification to the departure yard.

THE CHAIRMAN: Do you have one engine or more than one working from the receiving yard to the classification yard?

THE WITNESS: From the receiving yard to the hump we have two engines.



MR. SINCLAIR: I am sorry I cannot hear when you do that. I did not hear you.

THE WITNESS: From the receiving yard to the hump we have two engines.

BY THE CHAIRMAN:

Q Both working at one time?

A Both working at one time. Well, we can only push one batch at a time, but there are two engines assigned to the pushing.

Q That is, one engine pushes at a time?

A Yes sir.

Q And another is getting ready to go back to take the next batch?

A That is right.

THE CHAIRMAN: Perhaps this would be a good time at which to adjourn.

--- The Commission adjourned at 4.05 p.m. until 10.30 a.m. Friday, March 15.

















